

Significance of Treaty Bodies in the Implementation of Treaties¹

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1. INTRODUCTION

The international human rights law provides horizontal and vertical protection³ of human rights. The enforcement of international human rights law is carried out normally by treaty bodies, known as the vertical approach of human rights protection, which includes legal, judicial and political processes of investigation of human rights violations and "deliberation" of ideas and issues. The decisions are less effective compared to the horizontal approach, which includes economic and military coercion to act in accordance with international human rights treaties. Still, we face a constant battle as to whether human rights have cross-broader application, as the traditional concept of national sovereignty has become the customary resistance of some authoritarian countries. The concept of national sovereignty is now construed in a way that it no longer affords impunity for the transgression of human rights. Therefore, it no longer serves as a barrier in implementing human rights, as there are some supra-national human rights enforcement mechanisms – "treaty bodies" – which have become the part of the normal fabric of the international topography.⁴

In principle, the state serves as a key guarantor of human rights, despite the fact that international human rights law prescribes the standard of treatment of individuals by their governments. The state is the foundation for the

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³ These approaches are not universal approaches; however, they are used recurrently by writers see *infra* note 2.

⁴ Makau Wa Mutua, 'Looking Past the Human Rights Committee: An Argument for De-Marginalizing Enforcement', 4 *Buffalo Human Rights Law Review* 211, 1998.

development of human rights law. Furthermore, it is known as the antithesis of human rights -- one exists to contest the other in a struggle for the domination over society.⁵ Human rights norms are codified by states⁶ although they are preordained to contain and control state power. The "good" state controls its despotic position by internalizing human rights norms and submitting to their moral preeminence. The "bad" state rejects the authority of human rights norms and carefully guards its sovereignty from popular control. Therefore, the tension between the state and human rights dialogue can be mitigated but not eliminated.

The treaty bodies are the response of this constant battle. They urge that human rights should be internalized in every sphere of governance so as to protect the valid interests of individuals. As soon as a state accepts the responsibilities of the treaties, it must fulfill the duties derived from them. International human rights treaties establish an extended bond of relationship of an individual with his/her state and sometimes it extends to the international community. Each treaty provides human rights, which are designed for the individual within the domestic jurisdiction. As a general rule, states do not recognize the violation of human rights in their domestic jurisdiction, and, state sponsored institutions may not legitimately frame questions against the action of the government. Therefore, it is essential to have a supra-national mechanism to monitor obligations as well as the commitments made towards the protection of human rights.

2. THE NECESSITY OF ESTABLISHING TREATY BODIES

A. The Need of the Treaty Bodies

It is practically recognized that rights hold corresponding duties in human rights jurisprudence, but liberals might argue otherwise. The point here is to make clear that international human rights laws provide different duties to

⁵ Makau Wa Mutua, 'Hope and Despair for a New South Africa: The Limits of Rights Discourse,' 10 *Harvard Human Rights Journal*. 63, spring 1997, at 68.

⁶ The contribution of British Constitutional Documents such as Magna Carta, Petition of Rights (1628) Bills of Rights (1689) did codification of the traditional liberties into constitutional document. Furthermore, the American Declaration of Independence (1776) and the French Declaration (1789) also have contribution in codification of human rights in their respective countries.

the state depending on the nature of the rights. For example, the ICCPR generally provides “traditional negative liberties” whereas the ICESCR provides several positive obligations to the states. There are new and evolving trends in which the traditional classification of rights and state duties have been altered and it is now believed that there must be more obligations assigned to the state, since the state has the duty to satisfy its citizens. The international human rights monitoring mechanism depends on the nature of human rights treaties. There are some essential prerequisites while implementing international human rights. Firstly, the state needs to treat citizens equally, respect their individual dignity and overall *respect* the rights of citizens. Secondly, there should be *institutional mechanisms* of the state to implement the rights and to prevent the direct interference of government. The institutional mechanism needs again to *protect* rights and *prevent* violations. In addition, the state should provide resources to implement some rights, for example, in regards to the right to housing, the government must allocate adequate resources. Resources are needed to ensure most of economic and social rights. Lastly, the state has to *build* a strong human rights culture, which brings changes in the attitudes and behaviors of law enforcement institutions and officials, as well as the general public.

The idea behind international human rights is to establish a relationship between the individual and the state, and to internalize human rights norms and allow them to penetrate and transform into their domestic legal and political culture. The obligation of the state as stated above is to implement international norms in the domestic legal and political order or give legitimacy and enforcement of human rights. Thus, the role of treaty bodies is simply identified as to monitor, encourage compliance with, and enforce human rights norms at the domestic jurisdiction of states, since treatment of the states to its citizens is not only a matter of domestic concern. In addition, they serve as ideas of understanding the rights guaranteed by the respective treaties at the national level.

The question arises as to who monitors the aforesaid obligations of the state? The state itself, or state sponsored institutions? It is understood that the international human rights regime provides a wide range of human rights. Each treaty implies different kinds of obligations. Therefore, the underlying reason for the establishment of treaty bodies is to make the state

responsible for respecting human rights, ensure human rights guarantees through institutional mechanisms protect and prevent from abuse and violation, and develop a human rights culture.

B) The Underlying Reasons

Most treaties have their own mechanism to monitor in terms of implementation or compliance with treaty provisions. As stated earlier, rights have different natures. Therefore, each committee possesses virtually identical mandates in implementing the rights guaranteed by the treaties. Six treaty bodies monitor compliance of their respective treaties. These are the Human Rights Committee (HRC), the Committee against Torture (CAT), the Committee on the Elimination of Discrimination against Women (CEDAW), the Committee on the Rights of Children (CRC), the Committee against Racial Discrimination (CERD), Committee on and the Committee on Economic, Social and Cultural Rights (CESCR)⁷.

Two basic underlying principles behind the establishment of the treaty bodies may be identified: a) International human rights law provides a normative framework of human rights which is applicable in national boundaries. "Bad states" generally abuse human rights; therefore, the domestic mechanism for monitoring the performance of human rights against its own government would not be sufficient; b) No state could legitimately interpret international human rights or invoke national laws to justify its action or omission; therefore, all states must depend on international law for the interpretation of human rights.

3. IMPLEMENTING INTERNATIONAL TREATIES ON THE DOMESTIC LEVEL

A. Reporting Mechanisms

Each of the committees monitors the compliance of human rights through state reporting. Consequently, states have to submit "state reports" on the themes prescribed by the committees. The essential premises to be included

⁷ The CESCR is different from other treaty bodies because it is not established according to the mandate of the ICESCR.

in the reporting are: progress, measures and actions taken in order to implement the rights guaranteed by the respective treaties.⁸ The ICCPR for example requires all state parties to submit reports to the Committee "on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights."⁹ All treaties require an initial report and periodic reports. The Committees generally treat initial reports as a time to establish a "constructive dialogue" with state representatives and allocate more detailed concentration to specific human rights practices in succeeding periodic reports.

Once a state party submits its report, the respective committees review the submission in a public session¹⁰. The Committees generally invite the government representatives to attend the session, make brief oral presentations, and respond to the Committee's substantive questions on the reports submitted by the state parties. The scope of the Committee's inquiry is not limited only to the submission of a report. Generally, the committees are free to use any information available, including documents provided by non-governmental organizations (shadow reports). However, in practice, this rarely happens. After the open session, the Committees draft comments on the report and on the responses of the state parties to questions being asked by the committees. The committees publish these comments in their annual report.

Although the submission of reports, both initial and periodic is the state's obligation, there is no clear provision regarding the ways of preparing the reports. Therefore, reports are often submitted without complete coverage on the themes. They consist of a mere description of the constitutional and legal provisions and lack substantive questions. Considering these problems, some of the committees have adopted guidelines to assist state parties in complying with reporting obligations.¹¹ Initial reports include two sections: an introduction describing the general legal framework of the state party, followed by an article-by-article presentation of information on (1) the legislative, administrative, or other measures in effect in regards to each

⁸ Different terminologies have been used in different treaties, and these are based on the nature of the rights.

⁹ Article 40, *the International covenant on civil and political rights* 1966.

¹⁰ This session was held in New York and Geneva, for further detail see, Office of the UN High Commissioner of Human Rights Website <http://www.unhchr.ch>.

¹¹ The Human Rights Committee has issued guidelines for state parties in order to assist in the reporting process.

right; (2) restrictions or limitations imposed on the enjoyment of each right; (3) factors or difficulties affecting the enjoyment of each right; and (4) information on progress made in guaranteeing the right. In periodic reports, the committee prepares a list of non-exhaustive issues that it intends to cover during the session and forwards them to state representatives in advance of the meeting. More and more, these lists of issues have focused on factors and difficulties that may be affecting implementation of the Covenant.

Committees have adopted some progressive approaches in order to comply with the human rights guaranteed by the treaties.¹² However, they aim only to build a constructive dialogue through the reporting process and *not* raise any "contentious or inquisitory issues".¹³ The Human Rights Committee expressly states that the reporting function "is to assist State parties in fulfilling their obligations under the Covenant, to make available to them the experience the Committee has acquired in its examination of other reports and to discuss with them various issues relating to the enjoyment of the rights enshrined in the Covenant".¹⁴

B. General Comments

General Comments are "distinct juridical instruments, enabling the committee to announce its interpretation of different provision of the treaty..."¹⁵ Issuing general comments is regarded not as a separate part of the function of the committees, but an integral part of state reporting. It is an authoritative interpretation of the treaties, an "elaboration of the covenant for the human rights movement in general."¹⁶ The committees usually address the general (collective) issues known as general "comments" raised in state reporting, instead of commenting on state reports. This is

¹² By the 1990s, the Human Rights Committee took a different track. While considering the state report, the committee can examine relevant information from other sources. Accordingly, the information should relate to the reports to be considered during the committee's session and, if necessary, supplemented by the written information already provided. For detailed information, see Henry Steiner and Philip Altson, *International Human Rights in Context, Law Politics and Morals*, 2nd ed., Oxford University Press, 2000 at 713.

¹³ Report of the Human Rights Committee, U.N. GAOR, Hum. Rts. Comm., 35th Sess., Supp. No. 40, at 85, U.N. Doc. A/35/40 (1980).

¹⁴ Work of the Human Rights Committee under Article 40 of the Covenant on Civil and Political Rights, U.N. GAOR, Hum. Rts. Comm., 48th Sess., Supp. No. 40, Annex X, at 218, U.N. Doc. A/48/40 (1993)

¹⁵ Thomas Buergenthal, *The Human Rights Committee*, in Stiner and Altson supra note page 711

¹⁶ See Steiner and Altson, supra note 11 at 733

known as the diplomatic approach for the protection of human rights. The general comments consist of the Committee's experience with reports and promote certain obvious goals such as co-operation between states parties, improvement of reporting, and Covenant implementation. As the Human Rights Committee states:

The purpose of these general comments is to make this experience available for the benefit of all state parties in order to promote their further implementation for the covenant, to draw attention to insufficiencies disclosed by a large number of reports; to suggest improvements in the reporting procedures and to stimulate the activities of these states and international organizations in the promotion and protection of human rights.¹⁷

General comments are broadly divided into two parts. The first part includes reporting obligations and procedures. The second part includes the interpretation of particular articles and substantive rights. Most of the comments from the concerned committees have analyzed the individual articles of the treaties and gave an authoritative interpretation of the provisions. General comments No. 6 relating right to life, General Comments No. 14 regarding conventional weapons, General Comments No. 17 regarding right to privacy, General Comment No. 18 on non-discrimination and General Comment No. 29 regarding emergency and derogation of human rights give an authoritative interpretation and guidance to states in implementing the ICCPR. Similarly, General Comment No. 3 of the ECOSOC provides an interpretation of the nature of the ICESCR. As there is no direct sanction for the non-compliance of the general comments and observations made by the committees, the committees only express their regret on the omission of factual information in state reports. Sometimes they go further and point out that the reports have failed to address certain issues in detail. Additionally, the committees guide the states for future reporting.

C. Individual Complaints

The Committee's other major function is to consider written "communications" from individuals under the concerned treaties and in

¹⁷ UN Doc. CCPR/C/21/Rev. 1, 19 May 1989.

some cases under the Optional Protocols.¹⁸ Usually, the committees hear complaints about systematic violations – the consistent pattern in practice or the practice of recurrent phenomenon. They serve as a quasi-judicial in interpreting the treaty in these cases. They act as an arbiter of contentious disputes between individuals and states. It also provides victims of human rights violations an international forum for relief where domestic remedies are unavailable or insufficient.¹⁹

There is no fundamental distinction in *modus operandi* between the committees in hearing individual communications. Some treaties have optional protocols, which enable individuals to have access to the committees to seek remedies on systematic violation of human rights. This creates a "double standard of adherence to covenant rights" ²⁰ in which states that have ratified the Optional Protocols (in some cases even the treaties) are subject to a far greater level of scrutiny of their compliance with the treaties than states that have refrained from ratification.

If the committees find the individual complaints admissible, they ask state parties to submit written explanations or statement clarifying the matter. Most committees do not take oral testimony or hear oral arguments from parties. After the parties submit information, the committees determine whether the facts presented disclose a violation of rights guaranteed by the treaties. The committees then formulate an opinion as "views" describing the allegation of the author, the responses presented by the state party concerned, the decision of admissibility and interim measures (if any) and consideration upon which the committee is based on its decision. This also includes the degree of state party cooperation during investigation, burden of proof, and substantive interpretation of the required provisions of the treaty.

D. Enforcement of Findings

The international enforcement mechanism does not provide legally binding power to the treaty bodies to enforce their decisions, views or comments. International treaties are "hard laws" in the sense that they possess an

¹⁸ For example, the first optional protocol to the ICCPR provides individual communication systems.

¹⁹ Laurance R. Helfer and Ane-Marie Slaughter, *Towards a Theory of Supranational Adjudication*, 107 *Yale Law Journal* 273 at 342

²⁰ *Ibid.*

obligatory power compared to declarations and other "soft laws". Thus, according to the nature of treaty bodies, decisions should be implemented without any preconditions. Once a state becomes party to any international instruments, it is legally obliged to comply with them. However, states behave differently in practice. The "views" expressed by the committees are not taken as binding obligations. Implementation depends largely on the willingness of state parties. In practice, no committees serve as judicial arbiters and even they are not the highest authority of appeal against the decisions taken by the judiciary in the state concerned. Cases generally close as soon as the committee passes its view to the parties concerned. Due to the lack of follow up mechanisms, the international system lacks coercion.

The enforcement mechanism of the committees is weak and largely depends on the state's moral character and willingness to cooperate with the decisions of the committees. The committees are inadequate in addressing real situations due to the limitations placed on its conception. Therefore, they have been unable to penetrate the state's authority in implementing the overall thrust of international human rights law. Formal requirements exist calling for states to be party to the convention, and enabling the committee to frame its general comments and observations after receiving reports and information. In addition, they have to accept the compulsory jurisdiction of the committees for hearing individual communication and inter-state communication. The recommendations of the committees regarding legal and institutional change could be an effective way to create pressure and promote a conducive environment for the enjoyment of human rights. However, this largely depends on the political commitment of the state.

There have not been any definitive studies on the impact of the decisions of the committees on the state and victims. In some cases, the concerned states have taken progressive approaches and changed their legislations. For example, in *Lovelace v. Canada*, the Canadian government changed the law which violated article 27 of the ICCPR; in *Shirin Aumeeruddy Cziffra and Nineteen Mauritian Women v. Mauritius*,²¹ in which Mauritius government amended the legislation to remove discrimination based on sex, and *Hartikainen v. Finland*, where Finland altered the statute to give added

²¹ The Human Rights Committee under the ICCPR decides all these cases.

recognition of parental rights.²² Apart from these cases, the implementation and respect of committee views is doubtful.²³ Academic writings again reveal an unsatisfactory record. Among the committees, the HRC has done some significant work despite the lack of resources. However, its work has also been heavily criticized. As McGoldrick points out, "[t]he ultimate concern of an alleged victim is...with the observance of HRC views in an individual case rather than with the procedural merits of the Optional Protocol system. It must be frankly admitted that compliance with the HRC views by state parties has been disappointing."²⁴

However, the HRC recently started to request information on the implementation of its views. In the *Toonen case*, it held that it wishes to "receive within 90 days of the date of the transmittal of its views, information from the state party on the measures taken to give effect to the views."²⁵

4. TREATY BODIES AND NEPAL

Nepal has ratified most human rights treaties and conventions concerning to human rights. It has also ratified the first Optional protocol to the ICCPR. As provided by the Treaty Act 2049, the international treaties and convention in which Nepal is parties have the same status as prevailing laws in Nepal. If there were inconsistencies between international law and domestic legislation, the international treaty would prevail. Therefore, adequate consideration has been given to the importance of complying with international law. Nepal has not made any reservations (except in CERD see below) while ratifying, adopting or accessing international treaties; therefore, all provisions of all human rights treaties are applicable without any pre-condition.

²² Makau Wa Muta: Looking Past the Human Rights Committee: An argument for De-Marginalizing Enforcement, 4 *Buffalo Human Rights Law Review*, 1998 at 237

²³ Ibid.

²⁴ Dominic McGoldrick, *The Human Rights Committee: Its Role in the Development of International Covenant on Civil and Political Rights* (1991) at 202.

²⁵ *Toonen v. Australia*, Communication no 488/1992, UN Doc. CCPR/C/50/488/1992

Nepal's status on ratification, accession and signature is as follows: ²⁶

Treaty	Date of Signature	Date of Ratification/ Accession	Reservations/Declaration/ Understanding
ICESCR	Direct accession	14 May 1991	No reservation/declaration
ICCPR	Direct accession	14 May 1991	No reservation/declaration
CEDAW	5 Feb. 1991	22 Apr. 1991 (ratification)	No reservation/declaration
CRC	26 Jan. 1990	14 Sep. 1990	No reservation/declaration
CAT	Direct accession	14 Sep. 1990	No reservation/declaration
CERD		03/01/1971	Reservation on article 22/Declaration on article 4

The two leading covenants were ratified before the promulgation of the new constitution in 1990. Some of the rights enshrined in these two covenants are incorporated into the constitution. As a general practice, Nepal needed to change and amend its laws in order to make them consistent with the provisions of international human rights treaties. Gradually, some other changes and amendments were made to make national laws incompatible with international treaties. Some new laws, for example, the Torture Compensation Act 2053, Equal Property Rights for Women Act (Muluki Ain 11th Amendment), and the Act Relating to Children 2048, are important. There have been some policy reforms in housing, food, immunization and social security in national plans. Some institutional changes have also taken place. For example, the National Human Rights Commission was established to monitor Nepal's international human rights performance. Principally, the thrust of international human rights law has been accepted into domestic laws. However, there is still a vast gap between the "laws in books" and the "laws in action".

²⁶ Information received from the UN Office of the High Commissioner for Human Rights.(www.unhchr.ch)

In terms of state reporting, Nepal's position is very poor. Most reports are overdue, as no periodic reports are submitted. Even in submitted reports, the contents are mere descriptions of laws and policies of governments and the considerations and comments of the concerned committees are often ignored by the government. The status of ratification reporting of Nepal is as follows²⁷:

Treaty	Reports Due in Year	Reports Submitted in (year).	Due/Overdue
ICESCR	30.6.2006 30.06.1993	25.10.1999	
ICCPR	13.08.2002 13.08.1997 13.08.1992	Not submitted Not Submitted 30.03.1994	Due Over due -----
CEDAW	22.05.2004 22.05.2000 22.05.1996 22.05.1992	---- Not submitted Not Submitted 16.11.1996	--- Due Overdue Initial Report
CRC	13.10.2002 13.10.1997 13.10.1992	Not Submitted Not Submitted 10.04.1995	Due Overdue Initial Report
CAT	12.06.2000 12.06.1996 12.06.1992	Not Submitted Not Submitted 06.10.1993	Due Overdue Initial Report
CERD ²⁸	01.03.2000 01.03.1998 ROI (review of the implementation of CERD) 10.03.1988	29.04.2003 18.03.1999 10.03.1997 05.05.1997	15 th & 16 th periodic 14 th periodic 9 th , 10 th , 11 th , 12 th and 13 th

In terms of implementing the committees' concluding observations of initial reports, the position is again poor. For example, the CEDAW Committee has recommended the Nepali government to take sufficient action to reflect the provisions of the convention in domestic laws, or to amend prevailing

²⁷ Information received from the UN Office of the High Commissioner for Human Rights.(www.unhchr.ch)

²⁸ Status after 1988(see for earlier reports and situation at www.unhchr.ch)

discriminatory laws. In addition, it recommended that a definition of discrimination in compliance with article 1 of the convention be included in the relevant laws. It also urged amendments of discriminatory laws on property and inheritance, laws on marriage, nationality and birth registration, the Bonus Act and discriminatory criminal laws, including the new law on abortion as a matter of priority.²⁹ The government made some reforms, particularly in inheritance and property rights, but much remains to be done.

Similarly, the HRC has suggested clarification on the relationship between the executive and judiciary in emergency situations,³⁰ and found that there is a lack of legal clarity regarding the regulation of emergency.³¹ These reforms are also unfinished.

5. EFFICIENCY AND ACCESSIBILITY

One of the major benefits of international human rights laws is that it gives individuals the possibility of application of human rights without considering the limits of borders. As stated earlier, no state can claim its sovereignty if there are systematic and persistent violations of human rights. Additionally, a state's treatment of its own citizens is a matter of international concern. If individuals are unsatisfied with the state's treatment, they have access to international remedies. International human rights laws enable international pressure for legal reform and institutional change at the domestic level for better protection of human rights.

Recent developments have evolved in relation to the observance of human rights. Some committees have absorbed new trends, such as the concept of provisional measures and fact-finding missions. The Committee against Torture is authorized by convention to conduct a fact-finding mission if it finds reliable information indicating the systematic practice of well-founded forms of torture.³² However, this power is not provided to the HRC and most other committees. Regardless, the HRC has initiated the suspension of certain acts of state parties while hearing the case and asking for interim

²⁹ See, A./54/38/1999 Paras 117-160

³⁰ See Para 10, Concluding Observations of the Human Rights Committee, Nepal: 10/11/94.9 initial report of Nepal (CCPR/C/74/Add.2). Found online at University of Minnesota, Human Rights Library, <http://www1.umn.edu> URL: <http://www1.umn.edu/humanrts/hrcommittee/nepal1994.html> visited 7.8.2003

³¹ Ibid, Para 9.

³² Article 20

measures. In the *Sierra Leon case*, the committee urged the government to stay execution the sentence to death penalty as long as the communications were under consideration.³³ Therefore, victims at least can feel that there are international remedies to redress the violation if remedies are unavailable or inadequate in the national level.

It is said that the typical victims of human rights violations do not have easy access to the international human rights system. Victims are usually uneducated, poor, jobless and underprivileged, and most are women and children.³⁴ The formalities prescribed by the Optional Protocols and treaty itself limits accessibility, since one must exhaust all available domestic remedies. The subjective measure of "unnecessarily prolonged" is also very difficult to justify, as there are instances of inadmissibility of cases on the basis of non-exhaustion of domestic remedies available. Yet, domestic remedies are often not "exhausted" because they are complicated and unaffordable, or domestic institutions are too corrupt. People suffer from violations mostly in wartime. Due to restrictions on travel during war, people often cannot reach locations that provide remedy. The question of access to justice is extremely difficult for people who are systematically deprived.

6. PROBLEMS OF THE TREATY BODIES

There are some substantive and procedural problems in the international human rights monitoring system. These are follows:

1. The international community seeks more ratification in international human rights treaties to build up an international human rights regime. At the same time, reservation is used to restrict application of those treaties.
2. Furthermore, communication jurisdiction of treaty bodies applies only to states that have ratified the optional protocols or have accepted the compulsory jurisdiction of the committees. States that have ratified the Optional Protocols and have not made any reservations are subject to

³³ CCPR/C/64/D/839-841/1998. Later the committee decided expressing dissatisfaction on the failure to provide interim measures.

³⁴ *Supra note2* at 233.

far greater levels of scrutiny of their compliance with the treaties than those that have refrained from ratification or reservation.

3. The reporting burden of the states in each treaty has created an enormous problem in terms of resource, manpower, and expertise within the domestic level and in the UN system as well. Usually, states submit reports simply describing the laws and policies of its government, lacking substantive portions of its human rights reporting obligations. And due to lack of resources, there have not been any significant achievements within the UN system also.
4. All treaty bodies are suffering from resource constraints and expertise. In 1998, the Human Rights Committee had no secretary, which caused serious problems in communication between governments, NGOs and members of the Committee itself. Expertise in translating and transmitting reports are still same in the HRC.
5. Some committee work is heavily criticized on the ground of political interests. Power politics influence the appointment of committee members, and there is less representation from the south and east.

7. CONCLUSIONS

It is important to note as to whether the international human rights treaties can really any make differences on the behavior the states. There is still a misconception that political willingness of the states prevails in the implementation of the international human rights treaties rather than the norms derived from them. Therefore treaties have very few impacts on the actual behavior of the states towards the treatment of citizens. If we regard "treaties" as law, subsequently it has an expressive function as it influences behaviors not only by threatening to sanction but also by what it says. It tells the actor to act in a way that is appropriate and acceptable.

However, the compliance should be measured from the actual treatment of the citizens by the state rather from the outlook of fulfillment of procedural requirements in reporting. There are at least some achievements that human rights treaties have a constructive impact on the actual behavior of the states with their citizens and it can improve the practice of state in human rights performances.

8. RECOMMENDATIONS

- 1) The treaty bodies should establish substantive rules on concluding observations and seek implementation within a limited time period. The committee can also seek implementation in a given time limit in individual communication (as in the *Toonen case*).
- 2) The committees should be more viable and strong, ingenious, enhancing its complaint capacity since they currently cover millions of people around the world.
- 3) The existing requirements of individual communication are very unhelpful for key victims. Key victims have less access to the international system if the existing rule of exhaustion of domestic remedy is strictly applied. In some developing countries, the judicial process is extremely lengthy, complicated, inaccessible and corrupt. Therefore, it should be based on the committee's discretion as to whether exhausting domestic remedies is necessary.
- 4) There is virtually no systematic practice of following up on decisions at the domestic level. The Committees should coordinate with the other UN agencies working at the domestic level so as to implement the decisions made by them.
- 5) State parties should also adopt the suggestions made by the treaty bodies as guidance in implementation of human rights.
- 6) The UN should develop a unified reporting system for all treaties where state parties can submit all mechanisms adopted and progress achieved in the field of treaties.

