



THE INTERNATIONAL PROTECTION OF THE RIGHT TO LIFE

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Abstract:

The right to life is an inherent privilege that accompanies every individual's first breath. It's the basic entitlement to exist, with both body and spirit deserving respect, as living beings with life granted, many believe, by a higher power. This right is like a treasure, because without it, one ceases to exist. This is why the right to life is considered a fundamental human right - as death signifies the complete end of that person's existence

Keywords: *international human rights law, right to existence, right to subsistence, The right to life, Protection, security of person, Euthanasia, International Courts*

INTRODUCTION:

The right to life is an inherent privilege that accompanies every individual's first breath. It's the basic entitlement to exist, with both body and spirit deserving respect, as living beings with life granted, many believe, by a higher power. This right is like a treasure, because without it, one ceases to exist. This is why the right to life is considered a fundamental human right - as death signifies the complete end of that person's existence¹.

In ancient times, just like other rights, the right to life wasn't widely recognized. In simpler societies, this right was often limited to members of one's own group or tribe. However, in more advanced civilizations, things were different. This crucial right wasn't equally granted to all, often due to practices like slavery, where those in power believed they could do anything to their slaves, even kill them.

In ancient Greek society, traditions gave little value to individual opinions. Fathers had absolute authority over their children, to the point of having the power to decide whether they should live or die. Similarly, the upper class could sometimes eliminate a significant number of their slaves to prevent them from reproducing.

For instance, the Phoenicians would sacrifice their eldest children during times of disaster, as an offering to their gods.

It's truly astonishing, but history holds even more unsettling tales. At times, people were tragically put to death while they were still alive, all in a haunting attempt to be united with the deceased. This perplexing custom was rooted in a belief that these individuals would continue to serve their masters even in the afterlife, as if an unbroken continuation of their roles from their time on earth.

These harsh practices weren't isolated incidents; they extended their reach to Western Europe as well. Take, for example, "Henry VIII" the monarch of England. He went to extraordinary lengths, even eliminating religious leaders who opposed him, all because he desired to divorce his wife².

The Middle Ages witnessed a rather intriguing phenomenon. The predominant religions of that era actively contributed to the effort of liberating individuals from inequitable treatment. It's almost as if the Church assumed the role of a safeguard, offering protection to those who found themselves

¹Kharraboush, Nazih, International Protection of the Right to Life, Master's Thesis, University of Tlemcen, Algeria. 2005/2006, Page 01. Used with permission.

² Refer to: Suleiman Al-Tu'mat, Human Rights and Fundamental Freedoms, Dar Al-Shorouk and Distribution, Amman, Jordan, First Edition 2001, p. 41 for citation. Also, see: Faisal Santawi, Human Rights and Fundamental Freedoms, Hamid Library for Publishing and Distribution, Amman, First Edition 1998, p. 340.



subjected to unjust practices. The Church courageously opposed the unjust actions perpetrated by figures of authority, including governmental entities, that were aimed at subjugating them¹.

Within Christianity, a paramount emphasis emerged - that of acknowledging the inherent dignity of each individual. This conviction stemmed from the belief that humans were the handiwork of God's creation. Consequently, the logical corollary was that humanity warranted profound respect and genuine appreciation.

The generous principles of Islamic law, as conveyed by Prophet Muhammad, peace upon him, underscored the significance of human dignity and the preservation of human life, recognizing humanity as God's representative on Earth. The divine law prohibited unjust killing of a fellow Muslim. Furthermore, it strictly forbade the killing of children due to fear of poverty and prohibited taking one's own life through suicide, as God, the Almighty, stated: "***And do not kill the soul which Allah has forbidden, except by right***" (Al-Isra33).

The circumstances that compelled legal systems to turn their attention to human rights were undeniably significant. Nevertheless, the primary emphasis primarily revolved around foundational rights and freedoms, signifying a somewhat constrained comprehension of the broader spectrum of human existence. Initially, the international community channeled its energies toward combating the abhorrent practices of slavery and human trafficking, marking these as the inaugural human rights issues to be tackled globally. Despite the earnest endeavors, safeguarding individuals from their own governing bodies encountered obstacles rooted in the principles of national sovereignty and the principle of non-interference in a nation's internal affairs.

However, the upheavals prompted by the global shifts after World War II propelled the international community into a phase of delineating rights for individuals. This was achieved by forging international and regional accords that not only broadened the scope of protection but also bestowed an international dimension upon these rights. Chief among these entitlements stands the fundamental right to life.

This outcome arose due to the importance of this right, considering it as the most precious asset of a person. Consequently, this right has received considerable attention, being regarded as one of the most frequently violated rights².

Consequently, the significance of the right to life has escalated to a global level, transcending the boundaries of a nation's internal affairs owing to a plethora of international and regional pacts. This shift has prompted a comprehensive exploration of the right to life within the framework of these agreements, delving into a subject that defies easy confinement.

Conversely, it becomes apparent that the right to life lacks full realization and safeguarding unless it is accompanied by the presence of other interlinked rights, often denoted as the "**right to subsistence**" or more precisely, the "**right to existence**" These parallel rights bear the crucial responsibility of sustaining human life, encompassing essential requisites like sustenance, shelter, and access to healthcare³.

Nonetheless, even with the widespread recognition of the right to life within myriad agreements, its acknowledgment alone proves inadequate. This underscores the imperative need for the establishment of robust mechanisms or procedures to translate this right into tangible practice. This brings us to a fundamental inquiry: How has the international safeguarding of the right to life been instituted? To what degree has this safeguarding been actualized? And what forms of effective mechanisms can be implemented to ensure protection in instances of violation?

Therefore, the research necessitates its division into two parts:

- I. **First part: The right to life in international human rights law.**
- II. **Second part: The effective mechanisms for operationalizing international protection of the right to life.**

¹Yahyawwi, Nora. Protection of Human Rights in International and Domestic Law. Dar Huma for Publishing, Algeria, p. 07.

² Refer to: Nora Yahyawwi, Ibid, p. 08 for citation.

³ Refer to: Omar Sadaq, Study in Sources of Human Rights, Diwan Al-Matbu'at Al-Jami'iya, Algeria, Second Edition 2003, p. 101.



I. First Part: The Right to Life in International Human Rights Law:

International human rights law constitutes an assemblage of international legal norms and principles by virtue of which states have embraced legal and ethical commitments to advance and safeguard the rights of both individuals and nations, alongside their fundamental liberties¹.

Recognizing that the foundational right upon which the entire edifice of rights is constructed is the right to life, acknowledged as one of the inherent and essential rights of each human being, without which other rights remain illusory or mere complementary instruments, it becomes imperative for this right to hold distinct import. This import is not solely derived from its incorporation within entire treaties or conventions, but also from the repudiation of actions that undermine this right. These treaties may either assume a universal character, addressing all peoples and states, or adopt a regional dimension encompassing a specific territory delineated by shared affiliations, whether geographic, religious, or linguistic.

1. Section one: The International Treatment of the Right to Life:

It becomes evident through examination and scrutiny of international human rights conventions that they can either be broad-ranging agreements, encompassing a wide spectrum of civil, political, cultural, economic, and social rights exemplified by the Universal Declaration of Human Rights. Alternatively, they can take the form of agreements or declarations with a single thematic focus, constituting specific covenants dedicated to delineating particular rights, affording heightened attention to a specific right embedded within international law. These conventions not only enunciate the right to life but also furnish it with legal protection across various circumstances experienced by a state (First section), subsequently raising objections to certain practices that imperil this right².

1.1. Subsection one: Protection of the Right to Life in Various Contexts:

It is evident that international treaties have ensured adequate protection for the right to life, affording the requisite safeguards in both ordinary circumstances (First subsection) and emergencies (Second subsection), as well as within situations of armed conflict.

1.1.1. Firstly: Protection of the Right to Life in Ordinary Circumstances:

The provisions of international law have addressed the right to life, as stipulated in Article 3 of the Universal Declaration of Human Rights³, further reinforced by enshrining the rights to subsistence.

1) Preceding Discussions Leading to the Inclusion of the Right to Life in the Universal Declaration of Human Rights:

Article 3 declares: "Everyone has the right to life, liberty, and security of person"⁴.

Preparatory deliberations preceded this article, revealing that the committee dedicated an entire week to it, engaging in protracted discussions spanning eight sessions. Within this period, no fewer than eight amendments were proposed, presented, and subsequently rejected.

The representative of the Soviet Union introduced an amendment to Article 3, consisting of two components. This proposal underscored the necessity of specifying protective measures for this right, as well as imposing responsibility on the state itself for any transgressions against it. Nevertheless, the debate prolonged due to the fact that the suggested amendment raised two pivotal inquiries: firstly, establishing whether the state shoulders the duty of shielding every individual from criminal attacks on their person and enacting measures for their defense; and secondly, delineating the extent of the state's obligation to guarantee this protection.

Ultimately, Article 3 was endorsed in its existing form⁵.

The Universal Declaration extended beyond the mere articulation of the right to life, also enumerating additional rights encapsulating the right to subsistence. These rights found a broader sphere of application during the epoch of economic and social rights.

¹ Omar Saadallah, *An Introduction to International Human Rights Law*, Algerian University Publications, 1991, 12.

² Mohammed El-Shafei, *Human Rights Law*, Dar Al-Fikr Al-Arabi, Arab Modern Press, Cairo, 1992, 92.

³ The Universal Declaration of Human Rights was adopted on December 10, 1948, as an international covenant applicable to all nations. In this declaration, the General Assembly called upon the signatory states to promote and uphold the principles outlined in the declaration.

⁴ Mouloud Deddou, *International Covenants*, Dar Belquis, Algeria, p. 87.

⁵ Kharraboush, N. (2005/2006). *International Protection of the Right to Life*. Master's Thesis, University of Tlemcen, Algeria, p. 14.

2) Right to Subsistence:

These are the entitlements ensuring the basic material resources necessary for survival, chiefly encompassing sustenance as a vital condition for life and existence.

This encompasses the right to healthcare and social security¹. Article 25 of the Universal Declaration of Human Rights states: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care"².

The provisions of the covenant concerning economic and social rights serve as a complementary extension of Article 3 of the Universal Declaration of Human Rights. It asserts in Article 11 the fundamental right of each individual to be free from hunger.

Furthermore, Article 12 of this covenant addresses the realm of physical and mental health. It mandates the recognition of this right by states and the obligation to adopt all necessary measures to enhance environmental health and prevent infectious diseases. It is worth noting that most impediments to the enforcement of these rights are political rather than material, thus expanding the right to life into a broad economic and social context³.

1.1.2. Secondly: Protection of the Right to Life in Times of Emergency:

The foundational principle establishes a causal link between the exercise of an individual's rights and the assurance of the community's rights and liberties. The stability of the latter safeguards the former. Therefore, the exercise of an individual's rights may be circumscribed by restrictions and limits imposed during exceptional circumstances, commonly referred to as a state of emergency⁴.

1) Motives for Declaring a State of Emergency:

The announcement of a state of emergency entails the curtailment of an individual's rights. Consequently, justifications for such a declaration must exist. Some have argued that there are three motives for declaring a state of emergency:

- Actual armed conflict or preparations to counter its occurrence.
- Apprehensions regarding internal disturbances.
- Emergencies arising from the potential collapse of the economy⁵.

Article 4 of the Covenant on Civil and Political Rights outlines criteria and confines for this exceptional measure when dealing with human rights. Among these prerequisites, a threat to the nation must exist, and an official declaration of a state of emergency must be issued according to conditions specified by law. The actions taken must be proportionate to the exigencies of the situation⁶.

Hence, Article 4 of the International Covenant on Civil and Political Rights grants the state the latitude to adopt measures it deems appropriate, without being bound solely by the obligations stemming from respecting human rights. Nonetheless, this discretion is not unlimited. There are fundamental human rights that must never be violated, explicitly enumerated in the second paragraph of Article 4. These rights are intrinsically linked to humanity itself, obliging the state to abstain from infringing upon them.

2) The Right to Enjoy the Right to Life in Times of Emergency:

The factor that triggers suspicion and apprehension in times of emergency is the unfettered empowerment of the police and military to engage in indiscriminate and comprehensive use of gunfire, resulting in a multitude of fatalities. There is also a fear of the physical elimination of regime dissenters, constituting a blatant violation of the human right to life. Consequently, the roles of the police and military during emergencies acquire heightened significance, as well as increased peril,

¹Kharraboush, N. (2005/2006). International Protection of the Right to Life. Master's Thesis, University of Tlemcen, Algeria, p. 14.

²Dedan, Miloud, International Charters, Dar Belquis, Algeria, p. 93.

³ See: David B Forsythe, Translated by: Mohamed Mustafa Ghonim, Human Rights and International Politics. Egyptian Association for the Dissemination of Knowledge and Global Culture, Egypt, 1st edition, 1993, p. 58.

⁴ Mohammad Al-Shafie, Human Rights Law, Cairo: Dar Al-Fikr Al-Arabi, 1992, P.232.

⁵ Al-Shafii, Muhammad Al-Bashir. Ibid, p. 233.

⁶ Omar, Emad, A Question on Human Rights and the Rights of Peoples, Diwan Al-Matbuat Al-Jameia, Algeria, 1993, p. 75.



in upholding security, tranquility, and safety. This should exclude the haphazard use of firearms and, instead, necessitate the exhaustive exploration of all available alternative means to establish security before resorting to firearms¹.

1.1.3. Thirdly: Safeguarding the Right to Life During Armed Conflicts:

The set of principles enshrined in the conventions regulating armed conflicts is known as "International Humanitarian Law" It encompasses the corpus of international legal rules aimed at safeguarding individuals afflicted by the calamities of armed conflicts. Notably, three streams have left their imprint on this legal framework: the Geneva Conventions, Hague Conventions, and United Nations agreements and resolutions. The 1846 Geneva Convention, focusing on ameliorating the situation of wounded and sick members of armed forces in the field, along with the 1899 and 1907 Hague Conventions, have laid the groundwork for pivotal conventions in this domain.

However, these conventions have undergone evolution. The 1949 Four Geneva Conventions extend protection to the wounded, sick, and shipwrecked members of armed forces at sea and on land, as well as prisoners of war and civilians².

Two additional Protocols were appended in 1977, one addressing the protection of victims of international armed conflicts and the other dealing with victims of non-international armed conflicts. Furthermore, the 1925 Geneva Protocol expressly proscribes the use of toxic gases in warfare.

Moreover, the United Nations General Assembly has bolstered the legal edifice of Geneva and Hague with numerous international agreements, declarations, and resolutions. These are complemented by measures issued by both the General Assembly and the Security Council within the context of preserving international peace and security³.

1.2. Subsection two: International Perspective on Certain Practices Infringing upon the Right to Life:

There are certain practices that manifestly impact the infringement of the right to life. Among these practices, some have been addressed within international conventions, such as the imposition of the death penalty, while others have yet to receive a distinct international stance, despite leading to the direct and public termination of individuals' lives, a practice commonly known as euthanasia.

1.2.1. Firstly: The International Perspective on the Death Penalty:

In confirmation of the safeguarding of the right to life as enunciated in Article 3 of the Universal Declaration of Human Rights, due attention is accorded to Article 6 (06) of the International Covenant on Civil and Political Rights (ICCPR), specifically in its paragraphs (2, 4, 5, 6), concerning the death penalty. This penalty is not explicitly abrogated by Article 6 (06) in its entirety or detail, yet it does exhort the necessity for its abolition and the curtailment of its execution to the extent feasible. It further beseeches States parties that have not as yet rescinded this penalty to consider such judgements only for the most grievous crimes, pursuant to the applicable law prevailing at the time of the commission of the crime. Paragraph (6) of Article 6 (06) safeguards the lives of individuals who have committed offenses warranting the imposition of the death penalty when they were below the age of eighteen (18) or were pregnant women⁴.

Significantly, the expansion of the ambit of Article six (06) is manifest in the Second Optional Protocol to the ICCPR, which is geared towards the abolition of the death penalty. Article 1 of the Protocol proclaims: "No one within the jurisdiction of a State Party to the present Protocol shall be executed".

Consequently, it becomes evident that international human rights law has fortified the protection of the right to life through endeavors directed at the abolition of the death penalty⁵.

¹ Sadiq, Omar, A Study of Sources of Human Rights, Diwan Al-Matbuat Al-Jameia, Algeria, 2003, p. 112.

² Omar, Saad Allah, IBID, P. 117.

³ Omar, Saad Allah, IBID, P. 187.

⁴ Gibson, John S. Translated by Sameer Azzat Nassar, Dictionary of Human Rights Law, Dar Al-Nashr Wal-Tawzee, Amman, 1999, p. 22.

⁵ Kharraboush, Nizha, International Protection of the Right to Life, Abi Bakr Belkaid University, Tlemcen, 2005/2006, p. 17.



1.2.2. Secondly: Euthanasia:

One of the issues raised by the human right to life is euthanasia, even though this matter has not gained international consensus, whether in terms of its adoption or prohibition.

1) Definition of Euthanasia:

The term "euthanasia" originally signifies "gentle death", "easy death" or "compassionate death" In a historical context marked by widespread killing, it has evolved to encompass what is known as "mercy killing" or the "bullet of mercy." All these terms essentially convey the same notion: the deliberate termination of the life of a terminally ill individual through medical means that are painless, effectively hastening the patient's demise¹. This subject is not new; primitive communities and tribes practiced it, wherein individuals with infectious diseases were buried alive for preventive reasons. Similarly, the Nazi regime in Germany also employed it, particularly with regard to the elderly, as a cost-saving measure for rare medications.

2) Religious and Legal Perspectives on Euthanasia:

▪ Religious Perspective on Euthanasia:

If the act of mercy killing involves ending a person's life, then all of the Abrahamic religions categorically prohibit it, considering it an absolute prohibition and a form of homicide. This is based on the belief that only God has the power to give and take life. Islam, for instance, places great importance on safeguarding human life and does not grant individuals authority over their own lives; life is considered to be God's domain. Therefore, suicide is forbidden, and delegating the act to someone else is likewise impermissible.

In terms of clinical euthanasia, a former prominent scholar of Al-Azhar asserted that clinical euthanasia entails subjecting a dying patient to torture through the use of instruments or drugs when it is established by a physician that these interventions offer no benefit.

This perspective was endorsed by the 1979 Geneva Conference, which defined death as the cessation of brainstem activity, regardless of artificial heartbeat through medical devices.

▪ Legal Perspective on Euthanasia:

The majority of countries across the globe do not sanction euthanasia and impose legal penalties on its practice. However, some jurisdictions recognize and regulate it. For instance, the Netherlands legalized euthanasia under stringent circumstances and specific conditions. Nonetheless, critics of this legislation accused the government of introducing it to alleviate the financial burden of medical treatment and medication costs for citizens. Belgium has also legalized euthanasia.

Moreover, there are countries that indirectly allow it by permitting certain actions closely related to euthanasia. For instance, hunger strikes that cannot be forcibly prevented if the individual is fully conscious. Additionally, some laws, like the French legislation, do not prohibit suicide out of respect for individual autonomy. In the United States, there are organizations for suicide, formed by individuals who express a desire to end their lives, and the state acknowledges these organizations².

2. Section Two: Regional Protection of the Right to Life:

2.1. Firstly: Continental Protection of the Right to Life:

2.1.1. The European Convention on Human Rights:

Article 2 of the Convention stipulates that the law shall protect the right to life of every person, where the law here refers to the laws of the contracting states in the Convention. However, the second paragraph of this article excludes from the scope of protection killing in cases of legitimate self-defense.

As for the Convention's stance on the death penalty, it went through two stages. Initially, it did not prohibit the death penalty, as during this period, most European countries were still applying it. In pursuit of its ultimate abolition, complementary texts were introduced, the most significant being the Sixth Additional Protocol to the European Convention, which entered into force in 1985³.

¹Kharraboush, Nizha, International Protection of the Right to Life, IBID, P.67.

²Shatnawi, Faisal, Human Rights and Fundamental Freedoms, DarMaktabat Al-Hamid for Publishing and Distribution, 1st edition, 1998, p. 66.

³ Sassi Salim Al-Hajj, Legal Concepts of Human Rights Across Time and Place, Open University Publications, Alexandria, 1998, p. 194.



2.1.2. American Convention on Human Rights:

The American Convention recognizes the right to life and its protection as a fundamental human right in Article 4, mirroring Article 6 of the International Covenant on Civil and Political Rights.

Concerning the death penalty, the Convention does not categorically abolish it but allows for its exceptional application in cases of serious crimes. Moreover, states that have abolished the death penalty are prohibited from reinstating it under any circumstances.

2.2. Secondly: Protection of the Right to Life in Islamic and Arab Human Rights Documents:

Islamic and Arab states have shown particular interest in the field of human rights, and these rights are defined based on religious and linguistic affiliations.

2.2.1. Islamic Declarations and Their Protection of the Right to Life:

Islamic countries have defined human rights through two documents: one non-governmental and one governmental, both referencing Islamic law¹.

Islamic law encompasses comprehensive protection for this right due to its impact on preserving society's identity, vitality, and cohesion. This protection includes:

- The Sharia categorically prohibits the unlawful taking of a human life, considering it a crime against humanity. This prohibition extends universally to all individuals, regardless of their faith or background. It is rooted in the Quranic verse that states, **“And whoever kills a soul unless for a soul or for corruption [done] in the land - it is as if he had slain mankind entirely. And whoever saves one - it is as if he had saved mankind entirely”**².

Moreover, the Sharia extends this protection to the unborn, as evidenced by provisions allowing pregnant women to break their fast during Ramadan if they fear for the well-being of their fetus. Abortion is strictly prohibited under Islamic law.

- The Islamic Sharia not only prohibits the unlawful taking of a human life but also extends this prohibition to self-harm. This prohibition is rooted in the Quranic verse: **“And do not kill the soul which Allah has forbidden, except by right”**³.

Islamic law prescribes the principle of Qisas (retaliation) as a punishment for those found guilty of murder, underscoring the paramount importance of preserving human life. The verse **“you who have believed, prescribed for you is legal retribution for those murdered...”**⁴ emphasizes the sanctity of human life and serves as a foundational principle in Islamic jurisprudence.

Islamic human rights declarations have consistently reflected these principles. The Islamic Declaration on Human Rights, promulgated by the International Islamic Council in Paris on September 19, 1981, reaffirms the sanctity of human life in Article 1. It emphasizes that **“human life is sacrosanct and can only be deprived under the authority of Islamic law and within its prescribed legal framework”**. To further this declaration's implementation, an international Islamic human rights organization was established, which subsequently formulated a comprehensive document on human rights. This document encompasses provisions safeguarding the right to life, access to healthcare, and the essential prerequisites for upholding this fundamental right⁵.

Regarding Arab conventions, there were several attempts within the Arab League to establish an Arab Convention on Human Rights, which finally materialized in 2004. The initial initiative dates back to 1970 when the Human Rights Association in Iraq proposed the development of an Arab Declaration of Human Rights. This declaration contained provisions aimed at protecting the right to life and prohibiting human trafficking. Subsequently, the Arab League announced a project for an Arab Charter on Human Rights as part of the second initiative⁶. In this charter, participating states committed to safeguarding fundamental rights that cannot be violated. The third initiative focused on **“the rights of peoples and individuals in the Arab homeland”**.

Finally, in 2004, an Arab Charter on Human Rights was established, incorporating provisions to protect the right to life. Article 5 of the charter explicitly states that **“the right to life is a guaranteed right for every person, and the law protects it. No one may be arbitrarily deprived of his life”**.

¹See: Omar Sadaq, IBID , P. 133.

² See: Surah Al-Ma'idah, verse 32.

³ See: Surah An-Nisa, verse 29.

⁴ See: Surah Al-Baqarah, verse 178.

⁵Omar Sadaq, Ibid, page 135.

⁶ See: Article 1 of the Arab Charter 2004.



Regarding the death penalty, the Arab Charter follows a similar approach to other international conventions. Article 6 stipulates that **“it should only be imposed for serious crimes in accordance with the prevailing laws at the time of the offense”**. Article 7 introduces exceptions to this rule.

II. Part Two: Mechanisms Contributing to the Protection of the Right to Life:

After elucidating the international protection of the right to life, which is embodied in global and regional agreements, it must be noted that theoretical protection alone is insufficient. Activating this protection requires its implementation in practice through the imposition of regulatory frameworks. This is accomplished by establishing mechanisms and mechanisms that oversee the monitoring of states' compliance with these agreements.

There is a variety of supervisory and oversight bodies based on their nature and geographical location. These mechanisms can be categorized into judicial and legal mechanisms, some of which have a global international character, while others have a regional character¹.

1. Section one: Legal Mechanisms:

1.1. Subsection one: International Legal Mechanisms:

It is well-known that the United Nations is the international organization with global reach, with its charter entrusting it with the responsibility of ensuring and protecting human rights. To fulfill its role in the field of human rights protection, it has established several subsidiary bodies with wide-ranging powers and authorities². In addition to these bodies, there are independent organizations, separate from governments, that play an active role in the field of human rights protection.

1.1.1. Firstly: Types of Monitoring Contributing to the Protection of Human Rights:

Monitoring is conducted by specialized bodies and can be categorized into three types: procedural monitoring, quasi-judicial monitoring, and political monitoring.

As for the system of reports or procedural monitoring, it involves periodic reports on the human rights situation submitted to an international body for examination and the issuance of decisions regarding them.

Upon reviewing various international texts such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of All Forms of Discrimination, all of which protect the right to life in one way or another, it is evident that they all require member states to submit periodic reports. These reports include information about the state of human rights implementation within their territories³. Therefore, member states are obligated to report on the status of the right to life within their jurisdictions.

These reports, in addition to presenting the general framework for the protection of human rights, also review the legal, judicial, and other measures taken by each state individually to fulfill its obligations arising from its ratification or accession to the relevant treaty⁴.

These reports are sent to the United Nations Secretary-General, who in turn refers them to committees and bodies with the authority to review them. These bodies include the Economic and Social Council, the Committee on the Elimination of Racial Discrimination, the Human Rights Committee, and the Committee on Civil and Political Rights, all of which play a role in protecting the right to life. However, it should be noted that the decisions and pressure exerted by these bodies have sometimes led to mere rhetorical pressure, which can undermine effectiveness.

1.1.2. Secondly: Quasi-Judicial Monitoring:

This procedure is also known as the complaints system. It allows international bodies composed of independent individuals, either through a request submitted by a state party to a human rights treaty accusing another state party of not complying with its commitments or through requests submitted by individuals or groups. This system enables them to have their say on the matter at hand.

Regarding the bodies responsible for receiving these complaints, the United Nations Human Rights Committee has been authorized by the Economic and Social Council to review all complaints received from individuals, groups of individuals, or non-governmental organizations that claim serious and

¹Kharraboush, Nazihah, "International Protection of the Right to Life," Abi Bakr Belkaid University - Tlemcen, 2005/2006, pp. 74-75.

² Al-Shafi'i, Muhammad Bashir, IBID, p. 252.

³ Refer to: Qadri, Abdul Aziz, Ibid, p. 159.

⁴ Abd al-Aziz Tayebi Anani, Ibid, p. 33.



systematic violations of human rights and fundamental freedoms¹. The situations that meet all the necessary criteria are referred to the Human Rights Committee. It is worth noting that this committee only addresses severe and systematic violations, and its advantage lies in its ability to consider violations in all territories, not just those of the states party to a particular treaty.

Among the significant entities is also the Human Rights Committee, which was established in accordance with the International Covenant on Civil and Political Rights. This committee holds the authority to receive complaints from a state party that has acknowledged the committee's jurisdiction against another state party that has likewise acknowledged the same jurisdiction. Such complaints typically involve allegations of a state's failure to fulfill its obligations.

Furthermore, in accordance with the First Optional Protocol to the International Covenant on Civil and Political Rights, individuals who assert that a state party has violated their rights guaranteed under the Covenant, such as the right to life, can submit written communications to the Human Rights Committee. However, it is a prerequisite that the committee's jurisdiction is accepted in such cases.

1.1.3. Thirdly: Political oversight:

Political oversight, conducted by political bodies affiliated with international organizations, typically involves representatives from states rather than independent individuals. This form of oversight may manifest as judicial actions in the form of recommendations or resolutions. For example, the United Nations General Assembly has intervened in various cases, including those involving the fate of religious figures². Additionally, it has issued numerous resolutions related to human rights in colonial contexts. The General Assembly exercises this authority in accordance with Article 10 of the United Nations Charter, which prohibits it from discussing any matter or issue falling within the scope of the Charter³.

1.2. Subsection Two: Specialized International Agencies and Non-Governmental Organizations:

1.2.1. Firstly: Specialized International Agencies:

Specialized international agencies can be defined as those whose jurisdiction is limited to a specific sector of life or a particular subject matter. These agencies bear significant responsibility in promoting and respecting human rights⁴. As previously mentioned, the protection of the right to life cannot be ensured without enhancing it with some complementary rights, collectively referred to as the right to existence. Two agencies closely related to the protection of the right to life are the World Health Organization (WHO) and the Food and Agriculture Organization (FAO)⁵.

The World Health Organization (WHO) works to provide necessary medical care, combat diseases, and pandemics, and aims to achieve the highest possible level of health for all people. According to Article 1 of the WHO's founding charter, health is considered one of the fundamental rights of every individual, regardless of their race, religion, political beliefs, economic or social status. To achieve these goals, Article 2 of the charter outlines twenty-two functions and means through which the organization can work to fulfill its objectives. This includes assisting governments in enhancing healthcare services based on their requests and providing healthcare assistance to private associations⁶.

Therefore, it becomes evident from the above that the significance of this organization lies in reducing mortality rates by providing necessary medical care. Consequently, it plays a crucial role in safeguarding the right to life and should not be underestimated in this regard.

Another equally important organization in protecting the right to life is the United Nations Food and Agriculture Organization (FAO). Among its functions, this organization collects, analyzes, interprets, and disseminates information related to nutrition and agriculture. It also promotes national and international measures to improve the quality and provide technical assistance to governments in these fields. Furthermore, the FAO seeks to ensure increased productivity efficiency

¹Al-Shafi'i, Muhammad al-Bashir, *Ibid*, p. 263.

²Muhammad Saadi, *Ibid*, p. 69.

³Yahyawi, Noura, Ibn Ali, *Ibid*, p. 83.

⁴Ibn Amer, *Ibid*, p. 168.

⁵Yahyawi, Noura, *Ibid*, p. 28.

⁶See: John, S. Jason, *Ibid*, page 151.



and the proper distribution of food and agricultural products produced by farms, forests, and fisheries.

The FAO's effective role is also evident in the assistance it provides to developing countries in combating poverty and famine, especially in Somalia, where the population is suffering from death and other diseases due to malnutrition¹. It is clear that the role of this organization is to guarantee the right to life by ensuring nutrition for all peoples.

1.2.2. Secondly: Non-Governmental Organizations (NGOs):

International non-governmental organizations are primarily characterized as private associations formed not through agreements between governments but through agreements among individuals and private or public entities from various countries and nationalities. They seek to influence international relations.

There is a vast number of these organizations focused on human rights, with Amnesty International and the Red Cross Committee being among the most prominent².

Amnesty International is a non-governmental organization established in London in 1961. It has taken on the mission of advocating for prisoners detained due to their beliefs, ethnicity, or convictions, as well as fighting against torture.

It also works to respect and adhere to international treaties worldwide, intervening immediately to demand the cessation of human rights violations in various countries. It publishes monthly and annual reports on the status of these rights around the world³.

Furthermore, they work tirelessly to combat and prevent practices that contravene and threaten the right to life. They actively seek to abolish the death penalty under all circumstances without reservations, as this punishment places limits on the right to life, as acknowledged in all human rights declarations and agreements. To this end, the organization convened a conference to abolish the death penalty, resulting in the Stockholm Declaration in 1977, which included crucial points aimed at abolishing this punishment. The organization also strives to curtail enforced disappearances and political killings by governments and opposes violations committed by opposition groups. Notably, the organization primarily focuses on violations that directly affect human dignity, such as imprisonment, torture, and killing⁴.

In this regard, another organization recognized for its role in protecting human rights, especially in times of war, is the International Committee of the Red Cross. It is a humanitarian organization and, legally, a non-governmental organization, founded in Geneva in 1863, based on the will of Henry Dunant.

This committee played a pivotal role in establishing a connection between human rights and the laws governing armed conflicts. It aims to alleviate the horrors of war and impart a more humanitarian character to the rules that govern it, making it easier to ensure the protection of human rights⁵.

The core mission of this committee is to protect and assist civilian and military victims in armed conflicts, disturbances, and internal tensions⁶.

Practical experiences have shown the vital importance of swift communication with international non-governmental organizations in the defense of human rights. These organizations respond promptly to reports and actively advocate for the victims of human rights violations by sending telegrams to government authorities and disseminating information about these violations. This creates a ripple effect, as authorities attempting to conceal their human rights violations, especially the right to life⁷.

¹Yehiaoui, Noura, *Ibid*, p. 31.

²Ben Amer Tunisian, *Ibid*, p. 169.

³Faisal Shtainawi, *Ibid*, p. 182.

⁴Hani Suleiman Al-Ta'imat, *Ibid*, p. 410.

⁵Youhiaoui, Noura, *Ibid* p. 105.

⁶Faisal Shtainawi, *Ibid*, p. 195.

⁷Youhiaoui, Noura, *Ibid* p. 107.



2. Subsection two: Legal Mechanisms at the Regional Level:

When we discuss mechanisms for protecting human rights, and consequently mechanisms contributing to protection at the regional level, whether continental or through Arab and Islamic agreements.

At the continental level, we find the Inter-American Commission and the African Commission for Human Rights. Concerning international blocs, we find the Arab Commission for Human Rights.

As for the Inter-American Commission for Human Rights, which is a technical and quasi-judicial body more than a political one, it has evolved from being an entity working to solidify the concept of human rights to having authority in protecting and guaranteeing human rights by receiving complaints from individuals and non-governmental organizations against any member of the Organization of American States. When a complaint is accepted, it undergoes comprehensive examination and investigation, leading to resolutions¹.

On the African level, there are two bodies responsible for safeguarding human rights: the African Commission for Human Rights and the Conference of African Heads of State and Government. These two entities constitute a comprehensive mechanism for ensuring the actual implementation of the provisions of the African Charter by African states.

At the Arab level, we find the Arab Commission for Human Rights, which reviews reports submitted by countries concerning measures taken in the field of rights and freedoms enshrined in the Charter. These reports are submitted every three years².

Section Two: Judicial Protection Mechanisms:

When an international crime is committed, the international community has the right to punish the perpetrators of such crimes, and one characteristic of the punishment is its judicial nature. Thus, if the international community is to assert its rights, it must resort to a judicial mechanism that enables it to claim those rights. This judicial mechanism should be an International Criminal Court.

The purpose of establishing a legal framework for international criminal justice is to support the legitimacy of criminal responsibility for perpetrators of international crimes, regardless of the nature of the function they perform.

1. Subsection one: International Courts:

The international community has gone through several experiments in establishing criminal responsibility and imposing criminal penalties on perpetrators of international crimes, regardless of the type of function they perform.

The need for establishing an international criminal court emerged after World War I, but this idea was not crystallized or put into practical use until after World War II.

It led to the creation of the Nuremberg and Tokyo Tribunals³, followed by several ad hoc tribunals. This characteristic prompted the international community to consider establishing a permanent international criminal court.

1.1. Firstly: Ad Hoc Tribunals:

Regarding ad hoc tribunals, we find the Special Court for Yugoslavia and the International Criminal Tribunal for Rwanda. Considering the conflicts and armed disputes witnessed by various Yugoslav republics in the early 1990s, as well as ethnic and religious-based violations, especially in Bosnia and Herzegovina, the international community expedited the establishment of a special tribunal for Yugoslavia. This was done based on Resolution 808 issued by the United Nations Security Council in 1993, followed by Resolution 827 on May 25, 1993.

These tribunals are specialized in serious crimes, particularly those related to the right to life and having an international dimension. Examples include crimes against humanity and genocide committed during armed conflicts. Their jurisdiction extends regionally to the territories of the former Yugoslavia⁴.

In this context, the International Criminal Tribunal for Rwanda was also established due to the actions of extremist Hutus who aimed to force the Tutsi minority to leave their cities. This tribunal

¹Al-Shafi'i, Mohammed Bashir, *Ibid*, p. 290.

²Omar Saddouq, *Ibid*, p. 117.

³Baya Skakni, *ibid*, p. 44.

⁴Abdul Qadir Al-Qahouji, *ibid*, p. 283.



was established by United Nations Security Council Resolution 955 on November 8, 1994, to address crimes against humanity and genocide. Its headquarters are located in Arusha, Tanzania¹.

1.2. Secondly: Permanent International Criminal Court:

However, temporary ad hoc international tribunals are associated with specific conditions, limited to particular crimes, and their jurisdiction expires once their tasks are completed. Therefore, it was necessary to establish a permanent International Criminal Court (ICC) to overcome these limitations. This step became imperative due to the spread of terrorism, drug trafficking, and related conflicts with genocidal characteristics. Additionally, in response to criticisms directed at the ad hoc criminal courts, a permanent international criminal court was established with the primary purpose of protecting human rights, especially the right to life, from all violations. This would be achieved by applying international criminal law to all individuals referred to the court. Following intensive efforts, the Statute of the International Criminal Court was adopted at the Rome Statute conference, which involved participation from over 168 countries on July 17, 1998².

Unlike regional criminal courts, the ICC is characterized by its international scope, allowing it to address various severe human rights violations worldwide. To grant it comprehensive jurisdiction, the crimes it can prosecute are determined by Article 5 of the Rome Statute. This article specifies that the court has jurisdiction over the most serious crimes of concern to the international community as a whole³.

Regarding its territorial jurisdiction, the court is competent for crimes committed on the territory of any state party to the Rome Statute. For non-state parties, the court has jurisdiction if the state accepts its jurisdiction over the crime. Concerning temporal jurisdiction, the court can only address crimes committed after the entry into force of the statute.

In addition to these international courts, whether temporary or permanent, there are regional judicial mechanisms responsible for addressing all cases related to violations of human rights. These mechanisms are designed to have a comprehensive scope, and the most prominent among them include the European Court of Human Rights and the Inter-American Court⁴.

2. Subsection two: Regional Courts:

2.1. Firstly: European Judiciary:

The European Convention on Human Rights not only reaffirms the fundamental rights and freedoms of individuals but also seeks to implement them through the establishment of a judicial body known as the European Court of Human Rights⁵.

This mechanism began operating under Protocol No. 11, appended to the European Convention on Human Rights, which came into effect on November 1, 1998. Protocol No. 11 abolished the optional nature of the court's jurisdiction. Complaints can be lodged by ordinary individuals, provided certain procedural conditions are met, such as the exhaustion of domestic remedies, adherence to legal deadlines, and the avoidance of duplicate complaints before the European Court.

The decisions of the court carry binding force and are final for the parties involved⁶.

2.2. Secondly: American Human Rights Judiciary:

The American judiciary includes a special court dedicated to addressing various violations of human rights. This court has two types of jurisdiction: judicial jurisdiction and advisory jurisdiction.

Judicial jurisdiction of the court encompasses all matters related to the interpretation and application of the provisions of the American Convention. The court's mandate also extends to evaluating the compatibility of national laws with the content of the Convention. Additionally, the court has the authority, under Article 63 of the Convention, to issue certain judicial orders in serious cases to prevent harm. These measures are taken to avoid irreparable damage, particularly with

¹Abdul Qadir Bougherat, *ibid*, p. 36.

²AbdulkaderBaqirat, *ibid*, p. 41.

³Baya Skakni, *ibid*, p. 92.

⁴Abdulkader Al-Qahouji, *ibid*, p. 329.

⁵See: Mohamed Amin Al-Midani, the European Mechanism for Protecting Human Rights, on the website: www.lbh.fr.

⁶See: NazihahKharboush, International Protection of the Right to Life, Master's thesis, University of Tlemcen, 2005/2006, pp. 118-119.



regard to the right to life. The judgments issued by the court are final and binding on the parties, in accordance with Article 65 of the Convention¹.

Conclusion:

After examining this research paper, it becomes evident that various international and regional agreements have made significant efforts to protect the right to life. They all emphasize that this right is fundamental, requiring universal protection and respect. This principle is reiterated in Article 2 of the Universal Declaration of Human Rights and Article 6 of the International Covenant on Civil and Political Rights. Regional agreements on human rights also adopt a similar approach.

These human rights agreements do not merely articulate the right to life but also establish mechanisms to enforce it. These mechanisms include both legal and judicial avenues, such as international and regional committees and courts. However, upon closer examination, it is apparent that there are limitations to the protection offered:

On the international level, we find that the International Criminal Court (ICC) has not provided a specific definition for the crimes of terrorism and aggression. This lack of clear definitions has allowed major powers to justify their actions, often committing violations under the pretext of United Nations authorization.

Furthermore, regional protection, especially in Europe and the Americas, does not give significant weight to the rights of individuals without their nationality. This is evident in their campaigns of economic sanctions and blockades against opposing nations, which endanger the lives of the citizens in those besieged countries.

And here, daily news bulletins inform us of the deaths of dozens of people due to ongoing conflicts in various parts of the world. Therefore, no matter how precise and effective any global system for promoting and protecting human rights may be, it cannot replace internal protective mechanisms that states provide to their citizens. True progress will only come when states invest in cultivating individual citizens who value the lives of others. Behind the institutions of a state are individuals who manage its affairs, and if they act justly, the state prospers, but if they act corruptly, the state falters.

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¹NazihahKharboush, *Ibid*, pp. 124-125.