

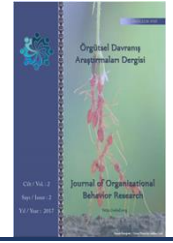


2528-9705

*Örgütsel Davranış Araştırmaları Dergisi*

Journal Of Organizational Behavior Research

Cilt / Vol.: 6, Sayı / Is.: S1, Yıl/Year: 2021, Kod/ID: 211S1759



## EXAMINING HUMAN RIGHTS AND MONITORING INGO'S WITH EMPHASIS ON HUMAN RIGHTS WATCH

Hamed AZIMI<sup>1\*</sup>, Majid ABBASI<sup>2</sup>

<sup>1\*</sup> Faculty of Law and Political Science, Allameh Tabataba'i University, Tehran, Iran.

<sup>2</sup> Department of International Relations, Faculty of Law and Political Science, Allameh Tabataba'i University, Tehran, Iran.

**\*Corresponding Author**

**E-mail:** hamedaziminokhandan@gmail.com

### ABSTRACT

*International human rights Non-Governmental Organizations (NGOs) are the third generation of international arena actors with a significant presence and growth in recent decades carrying out a wide range of activities for monitoring. They monitor government compliance with human rights obligations with the governments and international organizations at the international and national levels. A careful examination of governments' human rights measures and the publication of detailed reports of the existing violations have turned them into major critics of governments. These organizations represent civil society and make efforts to pursue the demands of the people at the national and international levels. They gather information from victims, support them, and, by guiding public opinion, provide opportunities for interaction or confrontation with governments or other human rights actors. Moreover, they have established their status in the international judicial system and accompany victims of violations during trials, to some extent, either as friends of the court or as plaintiffs. Our question is whether international human rights NGOs have been able to monitor the implementation of human rights at the national and international levels.*

*We hypothesize that these organizations have been able to play their supervisory role well by increasing their powers and scope of activities.*

*Using the theory of neoliberal institutionalism, we concluded that international human rights NGOs have been able to monitor governments and the international community for the implementation of human rights by expanding regulatory methods and by using public opinion.*

**Keywords:** Human rights, International NGOs, Monitoring, Human rights watch.

### INTRODUCTION

In the last fifty years, international human rights NGOs have drastically developed. According to their statutes, the purpose of these organizations is to protect human rights and monitor how much the governments adhere to their human rights obligations, and teach human rights issues. These institutions have various functions in human rights and sometimes have a role in shaping international rules. This is sometimes done directly like presenting and encouraging countries or even pressuring them, and sometimes indirectly by consulting assistance in collaboration with international organizations like providing information. Moreover, these organizations help enforce human rights law. Particularly in cases where the main enforcers of human rights rules, the governments fail to do so, these institutions enforce these rights. However, sometimes these organizations have indirect roles in the implementation of human

rights; thus, monitoring the actions of governments and revealing their human rights violations to the world, and are effective in shaping public opinion and putting pressure on countries' mistakes.

Article 71 of the United Nations (UN) Charter shows the cooperation and consultation with international NGOs and resolution 31/1996 UN Economic and Social Council (ECOSOC) allow the organizations engaged in one or more areas of the council, whose activities comply with the principles of the UN Charter, to enjoy an advisory capacity by concluding a special agreement with the United Nations' ECOSOC. The observers of these organizations in international organizations can work towards their goals by presenting their opinions and attracting the representatives of the countries and pave the way for planning and making decisions about them by presenting their desired issues on various bases. Here, Human Rights Watch (HRW) is one of the most critical human rights NGOs, whose indices are the same rules of political and civil rights stated in human rights treaties. This organization has a special advisory status to ECOSOC (Golshanpajouh, 2009: 173).

This organization is one of the most prominent and influential international NGOs addressing areas of human rights like drafting the law, its implementation, and monitoring the implementation of human rights at the international and national levels. This organization can draw the attention of many governmental and NGOs at the national, or international level by reporting, issuing a statement, or attracting public opinion. In such cases, these actions are even expected to change human rights policies in a country or an international institution.

Furthermore, the organization's examining the reports of countries and contacting victims and their families are examples of HRW activities. The reports and letters of the organization addressed to the officials of the countries have international repercussions and are considered by the international human rights organizations and various UN sections.

We hypothesize that international human rights NGOs have been able to play their oversight role well. To better understand the issue, we will look at examples of how HRW monitors and intervenes in human rights violations in the national and international arenas.

## **MATERIALS AND METHODS**

The method of collecting information in this descriptive study was library (existing books and articles) and documentary (review of official documents).

In this regard, the role of international non-governmental organizations will be explained using neoliberal institutional theory. This theory, contrary to realism, pays special attention to the discussion of international organizations.

## **RESULTS AND DISCUSSION**

Monitoring is an important way to promote human rights protection. However, this monitoring sometimes has a preventive effect, and the government official or any responsible institution monitored usually seeks to be more careful in its behavior. During this monitoring, the violations are identified and thus it is possible to find a solution to end the violations.



Moreover, monitoring allows evaluating the effectiveness and efficiency of measures taken to promote human rights and fight violations.

Nowadays, international organizations like the UN have established different monitoring mechanisms. Furthermore, treaty oversight mechanisms like reporting methods and proceedings in the ten committees have each overseen some well-known human rights. Governmental human rights institutions like national human rights institutions at the national level, encourage governments to adhere to their obligations and exercise oversight. The third institution is NGOs, performing different activities like human rights education, representation and service to victims, and monitoring, both in general and on a case-by-case basis. These organizations focus on human rights violations. Some have a broad agenda, whereas others are specialized and focus specifically on a specific issue like disappearance or torture. Moreover, the activities of some NGOs are limited to a specific country, country to which they belong, or a specific region like Asia, the United States, Europe, or Africa, yet some NGOs have a broad scope and are global in scope with collaborators across the world (Mehrpour, 2013).

### *Theoretical Framework*

There have been optimistic and pessimistic opinions regarding the contents of international relations since the formation of nation-states and the emergence of international relations science. These two approaches have been at odds for several years in the 19<sup>th</sup> and 20<sup>th</sup> centuries, whose main confrontation has happened as the first debate between World Wars I and II. Realism succeeded in this confrontation. However, various branches of idealism under different headings (theory of interdependence, the theory of regimes, etc.) posed challenges to the realism approach during the years after World War II. These challenges started a new phase in the mid-1980s that led to the theory of Neoliberalism or Neoliberal Institutionalism. This theory does not consider international relations as an atmosphere of violence and conflict against realism and considers the outbreak of war as an exception. Neoliberalism claims that even under disorder and lack of a central government in the world, international cooperation can be reached with the help of international institutions and organizations (Dehghani Firoozabadi, 1998).

Neoliberal institutionalists stress that the governments have some interest in entering into international institutional structures preventing inappropriate actions with unintended consequences. Human rights violence scarcely happens in the classical riddle, interdependence, and thus cooperation in human rights can be studied according to the perspective of neoliberal institutionalism (Mosaffa and Ebrahimi, 2008).

The creation of laws, documents, and legal institutions in the post-World War II era is one of the criteria for success in this regard. The most important documents are the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), and the International Covenant on Economic, Social, and Cultural Rights (1966). At the same time, the international labor organizations and the International Court of Justice have significant institutional and symbolic roles in upholding human rights. The increase in concern over the crimes of genocide, the outlawing of cruel punishments, and the rights of prisoners of war have progressed in this regard (Burchill *et al.*, 2012).

As the realists demanded, justice was practiced only within the governments, but now with the emergence of international human rights institutions and organizations and their increasing



development based on theories like neoliberal institutionalism, we witness the meaning of expanding justice and rule of law. Although some countries are unwilling to extend some of the issues of public rights, international NGOs have managed to increase the quantity and quality of their activities, whether through legislation, implementation, and most importantly monitoring enforcement of laws in different international processes like human rights.

### *International NGOs and International and National Monitoring*

#### *International NGOs and Monitoring at the National Level*

The governments have regulated many human rights treaties during international conferences and have been successful in standardizing through international organizations, but setting these standards alone is not enough to promote respect for human rights. Thus, the founding regulatory mechanisms have turned into something essential today.

#### *Providing Direct Services to the Victims*

This method of monitoring is done directly and called case monitoring. Case monitoring focuses primarily on victims is as cooperation and representation of the victim or groups of victims during legal proceedings or the provision of medical assistance. Seeing which person or people need support depends on the organization itself. Usually, a person's specific legal or health status can lead the organization to exercise oversight. For instance, if someone is arrested, the organization seeks to make sure that the detention is legal or that they are released as soon as possible if it is illegal. However, helping the victims has many different ways.

#### *Negotiating with Government Officials*

Negotiation is a general title stating different manners of applying pressure on national and international actors to change their policies. An NGO can select one form of interaction according to its purpose and possibilities. Negotiation enables the NGOs to inform political officials of the needs of society and to address issues of concern to them. By establishing a dialogue between an organization and a government, the organizations use their position as human rights experts to encourage the government to respect human rights standards. However, the interaction may happen indirectly. In this case, the NGO can inform the public to draw their attention to the issues and thus put pressure on the authorities.

#### *Information Collection and Preparing Reports*

The most key action of NGOs is to monitor the collection of information and, ultimately, the publication of annual reports on the human rights situation of governments. Organizations have to do enough studies to access data, especially, the lack of cooperation of some governments with NGOs and their inability to access internal resources make reporting more difficult.

Identification is the key in starting the studies. If an incident happens within the definition of a human rights violation, it will be necessary to investigate. The organizations have to ensure that there is sufficient evidence of a violation. However, sometimes in cases of severe human



rights violations, the NGOs face a wide range of violations. Prioritization is critical then. The organization must first formulate its policy and decide which rights it will focus on. After prioritizations, the information collection process starts. At this step, information is collected about the existing problems and examples of violations. This step is very difficult and needs a lot of effort. Here are some ways to access information:

### *Survey*

Surveys are a common method of monitoring, generally a combination of interviewing and the use of common data entry methods. This information can be collected with the help of interviewers or through a questionnaire. Sometimes it is impossible to reach all the people in question, where case the survey is based on a sample.

### *Communicating and Gaining Information from the Informant at the National Level*

Among the other methods for NGOs to obtain information is contacting informants including human rights organizations active in the country and, if possible, local government officials. Lawyers and journalists are very reliable sources as they have first-hand information. National NGOs and national human rights organizations can provide valuable information to these organizations.

### *Interviews with Victims and Witnesses*

The interviews are the most usual way of gathering allegations of human rights violations. Moreover, oral proof is needed to prepare a written report. Although some victims of voluntary witnesses could demand to participate in the investigation, victims usually reject to introduce themselves or to cooperate out of fear or distrust of the usefulness of the investigation. Thus, the organization has to first specify a place for these people. However, protecting victims and witnesses is critical too. Efforts have to be made to keep the process of cooperation and interviewing them out of the public eye and to keep the identity and information obtained during the interview secret to maintaining the security of these people.

### *Receiving Complaints and Information from Others*

Human rights NGOs must always be available to everyone to be successful even if the organization's representatives are not allowed to be present or active in a country. Thus, nowadays, these organizations use mass media, especially the Internet, to increase their presence around the world. By designing active websites, they let people register their information about violations and complaints on the site free, and subsequently follow up on the outcome of their complaint.

The organization researchers talk to victims and witnesses and listen to their testimony. Additionally, they pay visits to prisons, detention centers, and facilities where human rights violations have allegedly happened. They may also appear in courts to review the fairness of the proceedings or to meet with government officials and meet with representatives of human rights groups. However, in cases where the organizations lack access to government, information or testimony from refugees with victims who have left their country, letters received, newspapers and the press, interim reports from lawyers and other human rights activists, and letters by prisoners and their families are used.



### *Collaboration with NGOs and National Human Rights Institutions*

Another method used by international NGOs to monitor human rights at the national level is to work with NGOs and national human rights organizations. Thousands of national human rights NGOs operate in various countries. Many of them have no connection or cooperation with international and non-governmental human rights institutions and organizations. They work on issues within the scope of the Convention on Human Rights even if these organizations do not use terms like human rights don't call themselves a human rights NGO (Edwards, 2010).

Although the scope of activities of these organizations is limited compared to international NGOs, and in some cases lack the power to present their issues as they should to the international institutions, their efforts, in general, are to publish and prepare reports on domestic conditions as an important factor in attracting the attention of international institutions to a country. Hence, one can argue that the presence of national NGOs has a significant role in increasing international attention to the human rights in a country and its entry into the monitoring programs of these institutions (Meernik, 2012).

One can use the model first introduced in 1998 by Margaret Keck and Catherine King to show the relationship between national and international human rights NGOs. The boomerang model refers to a framework that National NGOs have allied themselves with international groups to apply pressure on the government of their choice. In this model, national NGOs interact with actors who work internationally in human rights and follow common values, and exchange information and services.

National groups, domestic NGOs, and social movements will have access to other international actors in governments and international organizations by connecting to international NGOs. Moreover, this cooperation opens new opportunities for activities for these organizations and adds to their value and credibility. However, these organizations cannot directly put pressure on the government they wish. Relationship with international NGOs allows them to overcome the existing barriers. However, the model has some benefits for international NGOs (Martens, 2004). By establishing communication, these organizations can follow their programs within the country with the help of their national counterparts and can follow up on violations at the international level by using their access to mass media, and international human rights organizations can follow up these violations internationally.

Among the other institutions working at the national level to promote human rights are the national human rights institutions. A national institute is the one that governments establish according to the constitution or in the implementation of ordinary law to provide a base for the protection and promotion of human rights through well-defined mechanisms (Hashemi, 2003: 33). Although the concept of a national human rights institution is defined as an organization with specific responsibilities and refers to civil rights, there are no quite similar two institutions. However, what they have in common is that the nature of national institutions is administrative, not judicial or legislative, and this is an important point in understanding the national institution.

These institutions are sometimes set up as human rights commissions. Commissions are independent of other government agencies, although they may have to report regularly to the



legislature or any other competent authority. Commission members, whose circumstances and barriers to an election may differ from one country to another, usually each have a specific interest, experience, or skill in human rights. Members of the delegation may be quota-based on occupational classes, political parties, or geographies. Another type of these institutions is the ombudsman, which is said to be handling people's complaints against the government.

A national human rights body has to possess the necessary competencies to promote and protect human rights. These powers should be explicitly conferred on these institutions through the constitution or other legal texts. Among the duties of these institutions are:

- A. Submitting proposals, recommendations, and reports in consultation with the Government of Parliament and other governmental bodies, either at the request of the relevant authorities or based on their authority.
- B. Enhancing and ensuring the harmonization and compliance of national laws, regulations, and practices of the country with the provision of the international covenants on human rights to which the government concerned has acceded
- C. Encouraging the government to sign ratifications and accede to international human rights treaties
- D. Participation in preparing government reports on the fulfillment of government obligations under the international covenants on human rights, which are submitted to the committees
- E. Collaborating with the UN and its specialized agencies, national and regional human rights institutions of other countries competent in improvement and protection of human rights
- F. Collaborating with the government in designing educational and research programs on human rights and participating in its education in schools and universities
- G. Promoting human rights concepts and combating any form of discrimination, especially racial discrimination, by raising public awareness by providing educational information through the media



### *Fact-Finding*

Overall, fact-finding procedure is any activity to obtain first-hand details and information about an issue or situation in dispute. NGO fact-finding refers to any mission or meeting of an NGO to obtain facts about human rights events. Nonetheless, fact-finding has different types. One has to make a distinction between fact-finding for human rights NGOs and fact-finding for presenting evidence to the courts or fact-finding at the request of HRW. Sometimes this fact-finding is a mission. This mission may start at the request of an international organization or an international tribunal.

In this case, the relevant organization plans missions to document and monitor the human rights situation in the first step to find out the truth. In this mission, the delegation or fact-finding agent refers to the places in the countries where there is information about human rights violations to conduct human rights research and studies and to examine and collect first-hand information and conduct the necessary checks to obtain all relevant information. Then while confirming the events, it prepares a report on the facts related to human rights

violations, situations, conditions, or other related issues, and submits the prepared report to a fact-finding authority delivered by that reference after the mission is over.<sup>1</sup>

Another type of fact-finding is done regularly by NGOs that monitor human rights. Such observers have a permanent mission in the target country and collect information and research through local sources. The organization issues report at regular intervals according to their observations. Indeed, these reports are a kind of fact-finding vital for identifying and managing issues and NGOs provide a kind of expert analysis with their reports (Peace, 2013).

### *Contractual Monitoring System and Human Rights NGOs*

Since the UN foundation, different human rights treaties have been drafted and enforced. Some of these treaties, like the International Covenant on Economic, Social and Cultural Rights ensure the rights and freedoms of all. Some of these treaties are specifically designed to support some people, like women, children, the disabled, workers, minorities, and so on. These instruments bring about regulatory mechanisms to ensure that states parties comply with the rights set out in the convention. Committees have been formed to review the reports of member states to conduct this oversight, and provide recommendations and interpretations if necessary to help their proper implementation more (Zakerian, 2009: 269). However, unlike the Human Rights Council, which has jurisdiction over all UN members, the powers of these committees are limited to member states.

### *Human Rights Committee*

The Human Rights Committee was established under Article 28 of the International Covenant on Civil and Political Rights with 18 members to monitor the proper implementation of the Covenant. One of the first tasks of this committee is to review the reports of member countries. Members shall submit a periodic report on their performance in the exercise of their rights under the Covenant to the Committee at the request of the Committee. Although the Covenant is silent on the participation of NGOs, the Committee has gradually established a working procedure for the cooperation of these organizations. Hence, at the same time as requesting a report from a government, the Secretariat of the Committee requests NGOs active in civil and political rights to provide any information it has regarding the country in question. This report will be given to the Committee. Then this information will be used by the committee during a preliminary meeting during which the government report is reviewed and questions are raised with the reporting government. Then in the preliminary meeting, the government report is reviewed and the relevant questions are asked from the reporting government. The Committee uses this information. The Committee urges NGOs to submit any questions they may have about the country concerned. During the preliminary meeting, these organizations can present their information directly to the rapporteur of the country. They could submit written statements to the Committee through the Secretariat and have the right to attend the meeting as an observer. These organizations can issue parallel reports with countries. For this purpose, the Committee has authorized them to obtain copies of the reports of the Governments from

<sup>1</sup> Commissions of fact-finding and inquiry missions on humanitarian law practice and guidance and international human rights, office of the high commissioner for human rights, 2015.



the State concerned or of the UN and to prepare their reports accordingly. Another tool at the disposal of these organizations is the presentation of oral statements in the reporting sessions of the countries, during which these organizations can receive the critical points contained in their parallel reports for problems related to the implementation of the Covenant by the country in question, examine the report of the country in question and issue general interpretations, if necessary. These interpretations include formal interpretations of the rights outlined in the Covenant and recommendations and guidelines for States Parties to respect the rights outlined in the Covenant. At this time, NGOs can also submit their views on the Covenant to the Committee written or orally.<sup>2</sup> (Buergerthal, 2001).

#### *Committee on Economic, Social and Cultural Rights (CESCR)*

The Committee was established to help the ECOSOC in fulfilling its responsibilities for monitoring states parties' compliance with their obligations under the International Covenant on Economic, Social, and Cultural Rights. The Covenant is assuming increasing importance because of the renewed emphasis by many UN member states on economic, social, and cultural rights and because, with a total of 90 ratifications as of March 27, 1987, it now covers well over half of the total UN membership (Alston and Simma, 2017).

Although the Covenant had not predicted the formation of a committee, unlike the Covenant on Civil and Political Rights, Article 16 called on states parties to submit reports to the Secretary-General on their implementation of the Covenant so that the Secretary-General shall provide the report to ECOSOC. The faults in the reporting system and non-cooperation of the governments have led ECOSOC to invoke Article 68 of the UN Charter, authorizing the establishment of any commission to conduct its functions - establish CESCR under Resolution 1985.<sup>3</sup> The committee has 18 members, the committee members are obliged to submit their reports to this institution every five years or at the request of the committee. Regarding receiving reports from a country, they provide their information to the Committee and in the preliminary meetings of the working group and during the initial review of the reports, provide their concerns and questions to the committee while providing information directly or by submitting a written statement to the Secretariat or orally in the issues meeting.



#### *Committee on the Elimination of Racial Discrimination (CERD)*

The committee was founded in 1970 to observe the implementation of the convention on the elimination of any racial discrimination. CERD is composed of eighteen experts (Wolfrum, 1999).

The Committee examines the periodic reports of states parties and helps them in resolving disputes concerning the implementation of the Convention while resolving individual complaints. However, the committee has the most restrictive rules for the participation of NGOs compared to other committees. Article 75 of the Commission allows the Committee to accept information from NGOs only at the individual level. Organizations can issue a written statement, too. Representatives of NGOs can attend the meetings as observers. However, the organizations lack the right to make oral statements at meetings. Prior notice is another

<sup>2</sup> Participation of NGO in the Committee on Economic, Social and Cultural Rights, available at [www.ohchr.org](http://www.ohchr.org).

<sup>3</sup> UN Doc. E/ RES/ 1985/ 17,28 May 1985

specific authority of the Committee, according to which the Committee may, before or during the conflict, prevent violations of the Convention. The relevant government should warn. Regarding this, the possibility of participation and information for NGOs is taken into account.

#### *Committee on the Elimination of Discrimination against Women (CEDAW)*

The committee was established in 1982 under Article 17 of the Convention on the Elimination of All Forms of Discrimination against Women. Like other committees, it reviews the periodic reports of member states. CEDAW's 30 articles enshrine a series of social, economic, political, and civil rights for women. The Convention recognizes the full equality of men and women under the law and proscribes discrimination against women in education, employment, political participation, healthcare, and economic life (Cole, 2016: 3).

#### *Committee against Torture (CAT)*

CAT was established under Article 17 of the Convention against Torture to monitor the proper implementation of the provisions of this document. The CAT was established to ensure that the Convention Against Torture and other Inhuman Cruel, or Degrading Punishment or Treatment is implemented.<sup>4</sup>

While enjoying the authority to review periodic government reports, the committee has the authority to hear complaints from individuals against governments and member states against each other and may conduct confidential inquiries into the information obtained. Besides this paragraph, Article 21 of the Convention authorizes the Committee to examine any information received from individuals and international NGOs concerning the existence of torture in states parties. Nonetheless, this is subject to the relevant government has already recognized the committee's authority to deal with such correspondence and information to submit to the Secretariat of the UN. Regarding this, NGOs may submit the information needed or report to the UN Secretariat before or during the Committee meeting.<sup>5</sup>

#### *Committee on the Rights of the Child (CRC)*

This Committee was adopted in 1989 by the General Assembly. The CRC was established under Article 43 of the Convention. Member states have to report to the Committee, on their performance through the Secretary-General in fulfilling their rights under the Convention and on any progress made in this regard. Article 45 of the Convention allows the CRC to invite specialized agencies, the UNICEF, and other authorized bodies to provide expert opinion and advice on the implementation of the Convention.<sup>6</sup>

In the academic literature, on the one hand, there is abundant praise for the Convention and/or the effects that it has had so far. For example, according to Roger Smith, 'internationally, there has emerged a high-level consensus about the interests and needs of children as represented by the UN Convention on the Rights of the Child'. And, according to

<sup>4</sup> United Nations for Human Rights Office of the High Commissioner. (2008), Selected Decisions of the Committee Against Torture, [Reports of the Committee against Torture](#), Vol. 1.

<sup>5</sup> Human Rights Watch submission to the UN Committee against Torture on Azerbaijan, 1 October 2015.

<sup>6</sup> [www.crin.org/](http://www.crin.org/) NGO Group for the Convention of the Rights of the Child about the NGO group. Last visited on 1394

Gary B. Melton: ‘the nearly universal adoption of the Convention on the Rights of the Child (1989) has changed the global discourse on children’s policy (Arts, 2014: 268-269).

NGOs can be present in the committee's preliminary meetings. To this end, they have to apply to the Secretariat in writing. The Request Committee invites organizations with information about the situation in the country examined to attend the Preliminary Meeting. During this meeting, these organizations will be given the opportunity for constructive dialogue.

#### *Committee on Migrant Workers (CMW)*

The committee was established under Article 72 of the Convention for the Protection of the Rights of All Migrant Workers and their Family Members and has similar powers to other committees. The Convention is an enabling tool that allows for a wide range of actors to discuss the issue of migrants’ rights, cooperate and develop coherent strategies for advocacy (Cholewinski, 2009).

Paragraph 4 of Article 74 of the Convention states the participation of NGOs. Because of this Article, the Committee may request NGOs to provide the Committee with written information on matters relating to the Convention. They can attend meetings as observers and file individual complaints on behalf of victims.

#### *Committee on the Rights of Persons with Disabilities (CRPD)*

CRPD is an international human rights treaty ratified by the UN General Assembly on 13 December 2006. The convention enacts a broad classification of individuals with disabilities and stresses that all persons with disabilities have the right to enjoy all fundamental freedoms and human rights. This method identifies how all categories of rights are exercised for people with disabilities, and identifies areas where people with disabilities have to exercise their rights effectively and areas where their rights have been violated, and where rights protection needs to be strengthened.

The committee is composed of eighteen experts who monitor the CRPD implementation. The members of the committee do not represent their government and act in a real way.

All states parties shall submit reports to the Committee regularly on the implementation of the rights stated in the Convention. Countries have to first report within 2 years of ratification of the Convention and thereafter every 4 years. The committee reviews each report and makes general recommendations and suggestions about the report.

Beyond legal representation and non-legal assistance in court, another key procedural support is the role of ‘amicus curiae’ – meaning ‘friend of the court’, a role often played by equality bodies, national human rights institutions, the Ombudsman or NGOs, who provide information to a court –often on regional or international human rights standards or comparative legal analysis, which may be useful to the court in making its decision about the rights of persons with disabilities (Flynn, 2015: 105).

#### *Committee on Enforced Disappearances (CED)*

CED is a body of 10 experts who monitor the Convention implementation by member states. Each member must be a national of one of the member states, have high moral character, and be competent in the field of international human rights.



All States Parties have to report to the Committee on the implementation of their rights. The countries have to submit their reports to the Committee within 2 years of the ratification of the Convention. The Committee reviews the reports and communicates recommendations and concerns to the member state as the final observation.

#### *The Subcommittee on Prevention of Torture (SPT)*

The SPT and other Cruel, Inhuman or Degrading Punishment or Treatment is a new type of treaty in the UN human rights system. It is a preventive task with an emphasis on an innovative, sustainable, and proactive approach to preventing ill-treatment and torture. It has 25 impartial and independent experts from different areas and fields worldwide.

As a cornerstone to prevention, states must sign or ratify the various international and regional instruments on the prevention of torture, but these laws must then be put into practice Subcommittee on the Prevention of Torture. The practice of prevention of torture is not a static one, but one that requires the updating and oversight of national laws, policies, and procedures governing places of detention (Payne-James *et al.*, 2017).

This committee has two main functions. First, the Committee can visit member states, during which it can visit any place where individuals are deprived of their freedom. Secondly, it is an advisory task involving assisting and advising member states on the establishment of national prevention mechanisms. Moreover, CAT generally cooperates with the UN bodies and mechanisms, and also national, regional, and international organizations or institutions.

#### *Human Rights NGOs and International Judicial Authorities*

##### *International Court of Justice*

The possibility of NGOs' participation is not explicitly stated in the provisions of the Statute and the Rules of Procedure of the Court. Considering interlocutory jurisdiction, Article 24 stipulates that only states may be parties to litigation before the Court. However, the participation of NGOs in the advisory jurisdiction of the Court differs from that of interlocutors. Paragraph 4 of Article 66, allowing governments and international organizations to provide oral explanations or written bills, has not used the general term stated in Article 34 (Ghasemi, 2013).

The International Court of Justice is not so willing to accept the participation of NGOs. Indeed, an institution that tries to assist the judiciary in obtaining the truth as a friend of the court has been very passive in the International Court of Justice. This is rooted in the limitation of the litigants to the governments on the one hand, and in the necessity of the prior agreement of the governments in referring to this institution on the other. Both the rules and the procedure of the Court show the impossibility of the intervention of NGOs in the interlocutory proceedings of this authority. In consultative issues, it seems that the Court has considered fewer restrictions on the participation of these organizations, but so far there has not been much opportunity for these organizations to work because the Court has refused to accept and use the opinions of these organizations for various reasons (Ramezani Ghavamabadi, 2008).

##### *International Criminal Court (ICC)*

The ICC was established in 1998 to hear international crimes committed.



According to the Statute of the International Criminal Court, the Rasa Prosecutor initiates an investigation or based on the information obtained from any source, in particular governments, international organizations, and NGOs. Hence, the statute does not allow the situation to be implemented directly by NGOs. Nonetheless, these organizations can present reports to the prosecutor and thus encourage him with information to start the investigation.

Another opportunity for NGOs is to participate in the court as a friend of the court. Article 103 of the Rules of Procedure and Evidence allows NGOs to submit their applications to the Court branch at any stage of the proceedings and in any case. Hence, the organizations can submit their analysis to the Court as a bill.

Moreover, the Statute of the Court has enabled using the specialized and expert assistance of NGOs. Article 44 allows the Court to accept the expertise offered by state parties and in exceptional circumstances, international organizations or NGOs to assist each of the institutions of the Court. These proposals will be sent to the prosecutor's office and will be accepted by the prosecutor.

Additionally, NGOs can take part in the trial with the consent of the victim or appear on behalf of the victim.

#### *The Participation of NGOs in Regional Human Rights Institutions*

The existence of different regional human rights mechanisms shows the significance of human rights to cultures and nations in various geographical regions. While emphasizing the importance of cooperating with the UN human rights (2016) activities and strengthening regional arrangements and mechanisms for the protection of human rights, the World Conference on Human Rights in Vienna in 1993 stresses the need to establish regional and sub-regional arrangements to promote and develop activities to support human rights. This is because the level of efficiency and success in the protection of human rights is practical and successful at the global level when local, national, sub-regional, and regional dimensions promote and work on supporting human rights (Zakerian, 2009).



#### *European Court of Human Rights*

After World War II and to prevent future conflicts in Europe, the Committee of Ministers, the legal organs of the Council of Europe, and the Parliamentary Assembly drafted the European Convention on Human Rights, subsequently ratified by member states. Under the Convention, a Commission and subsequently the European Court of Human Rights were established in 1959 to monitor the implementation of the Convention by member states and to hear complaints.<sup>7</sup>

Before the reform of the European Court of Human Rights, private plaintiffs whether individuals or groups had no rights to sue.

#### *American Charter on Human Rights*

This charter has two bodies, the American Court of Human Rights and the American Commission on Human Rights. The American Commission on Human Rights was first established in 1960. However, the American charter on human rights considered and

<sup>7</sup> European Convention on Human Rights, 4 November 1950, Art 19

determined the structure of jurisdiction and its composition in this convention, which was ratified in 1969.

The American charter on human rights is an independent judicial body established under the American Convention on Human Rights in 1979 to interpret and enforce the provisions of the Convention and to address alleged violations of the freedoms and rights recognized therein. The American charter has retained its two-part structure.

#### *African Charter on Human Rights*

The African Charter on human rights has a dual commission-court structure. The Commission on Human Rights and the People were established in 1987. The Commission has the task of collecting documents, studying and researching on African human rights issues, holding seminars and gatherings, disseminating information, encouraging and strengthening national and regional human rights institutions, cooperating with other African and international human rights institutions, establishing and adopting principles and rules to resolve legal issues related to human rights, and so on and, if necessary, providing advice to promote human rights (Zakerian, 2009).

This Charter is reviewed under the Charter Protocol if conditions like internal review and failure are met, with the consent of the majority of the Commission members. Every individual or institution can sue the commission, either in the event of a violation of the Charter or on behalf of the victims.

#### *HRW and Monitoring the Implementation of Human Rights at the International and National Levels*

HRW was established in 1978 as the Helsinki Watch to monitor the Soviet Union's observance of the provisions of the Helsinki Accords. It was established because after the final Helsinki Accords were signed in 1975 by 35 countries, such as the US and the Soviet Union. Many European countries were skeptical of the Soviet Union's implementation of the treaty.

A few years later, the American branch of the organization was established to examine this double standard. Nowadays, it claims to be the largest human rights organization in America. The organization examines issues like summary executions, torture, arbitrary detentions, restrictions on freedom of expression, association, and religion, and discrimination in religious, sexual, and racial issues (Golshanpajouh, 2009).

After establishing the United States Watch (1981), the Asia Watch (1985), the Africa Watch (1988), and the Middle East Watch (1989) were added as Watch Committees. In 1988, all of these committees were united under one umbrella to form HRW.

After the collapse of the Soviet Union, the organization assumed a significant role in institutionalizing the global human rights regime. After a while, the activities of the organization relented somehow, as the governments responsible for implementing this system began to support America, believing that it is the most important one (Slezkine, 2014).

The most prominent orientation of HRW to deal with human rights violations is to disseminate its information about these cases to embarrass the relevant government to the citizens as well as to the international community. HRW tries to isolate governments violating the rights of their citizens by pressuring them to cut off military, economic, and diplomatic aids.



This organization collects its information through local activists. Thus, intermittent studies are done in the target countries. However, in some very important and critical areas, the organization has established offices for this purpose. Interviews with victims and witnesses of human rights abuses, meetings with government officials, opposition leaders, local human rights groups, religious leaders, labor leaders, journalists, lawyers, doctors, relief groups, and anyone with access to first-hand information is of the methods of this organization to collect resources.

During its thirty years of existence, HRW has collected different documents and information from various countries. The archives of this organization form a very rich collection of materials of the global network of the interaction of human rights groups.

This global network of domestic and international human rights organizations has become increasingly important with the advent of rapidly evolving communication technologies and led the human rights movement to break the walls of national sovereignty, counter government counter-intelligence campaigns, and propagate domestic political developments in the world.

## CONCLUSION

Governments and international organizations have traditionally been the rulers, implementers, and even observers of international human rights. Therefore, there was not much room for direct participation of the individuals in this regard. However, that has changed with the emergence of international human rights NGOs like HRW. These organizations, established at the initiative of the private sector, are independent of governments and provide a good environment for direct collaboration of the individuals. While the access to international forums was far-fetched, people anywhere in the world today can easily become members of these organizations and pursue their goals.

These organizations have managed to fill the gaps in human rights monitoring significantly. They follow human rights monitoring at three levels. In the first step, these organizations will identify and help victims at the national level, negotiate with government officials, collect information and report, cooperate with domestic human rights institutions, and establish fact-finding. In the second step, at the international level, these organizations cooperate with the UN and the committees overseeing human rights treaties. In the third step, they cooperate with the international judicial system and use their results at the international and national levels against those violating human rights.

HRW is one of the most effective and prominent international NGOs managing to draw the attention of governments and the international community with its reports and statements over the years and leading to changes in policies at national or international levels in some cases. The organization's headquarters is in New York and has a special advisory status to ECOSOC.

**ACKNOWLEDGMENTS:** The authors would like to acknowledge Allameh Tabataba'i University of Iran.

**CONFLICT OF INTEREST:** None



**FINANCIAL SUPPORT:** None

**ETHICS STATEMENT:** None

## References

- Alston, P., & Simma, B. (1987). First session of the UN Committee on economic, social and cultural rights. *American journal of international law*, 81(3), 747-756.
- Burchill, S., Linklater, A., Devetak, R., Donnelly, J., Paterson, M., Reus-Smit, C., & True, J. (2012). *Theories of International Relations*, translated by Homeira Moshirzadeh and Ruhollah Talebi Arani, Tehran: Mizan Publications.
- Cholewinski, R., De Guchteneire, P., Guchteneire, P. F., & Pecoud, A. (Eds.). (2009). *Migration and Human Rights: The United Nations Convention on Migrant Workers' Rights*. Cambridge University Press.
- Cole, W. (2016). The Wiley Blackwell Encyclopedia of Gender and Sexuality Studies, First Edition. Edited by Nancy A. Naples. Published by John Wiley & Sons, Ltd. doi: 10.1002/9781118663219.
- Dehghani Firouzabadi, S. J. (1998). Theory of Neoliberal Institutionalism and International Cooperation. *Journal of Foreign Policy*, 12(3), 567-588.
- Edwards, G. E. (2010). Assessing the effectiveness of human rights NGO from the birth of the UN to the 21 Century: Ten attributes of highly successful rights NGO. *Michigan State Journal of International law*, 18.
- Flynn, E. (2015). *Disabled Justice? Access to Justice and the UN Convention on the Rights of Persons with Disabilities*. New York: Published by Routledge.
- Ghasemi, G. A. (2013). *International Law of NGOs*. Tehran: Khorsandi Publications.
- Golshanpajouh, M. R. (2009). Amnesty International, Human Rights Watch and the Situation of Human Rights in the Islamic Republic of Iran. *International Quarterly Journal of Foreign Relations*, 1(4), 163-182.
- Hashemi, S. M. (2003). Human Rights Protection and Guarantees in Domestic Law and the International System. *Legal Research Quarterly*, (38).
- Martens, K. (2004). Bypassing obstacles to access: How NGOs are taken piggy-back to the UN. *Human Rights Review*, 5(3), 80-91.
- Meernik, J., Aloisi, R., Sowell, M., & Nichols, A. (2012). The impact of human rights organizations on naming and shaming campaigns. *Journal of Conflict Resolution*, 56(2), 233-256.
- Mehrpour, H. (2013). *International Human Rights System*. Tehran: Etellaat Publications.
- Mosaffa, N., & Ebrahimi, N. A. (2008). The place of human rights in theories of international relations. *Politics Quarterly*, 38, 259-277.
- Payne-James, J., Beynon, J., & Vieira, D. (Eds.). (2017). *Monitoring Detention, Custody, Torture and Ill-treatment: A Practical Approach to Prevention and Documentation*. CRC Press.



- Peace, K. K. (2013). *International Organizations, translated by Hossein Sharifi Tarazkoohi*. Tehran: Mizan Publications.
- Ramezani Ghavamabadi, M. H. (2008), the Presence of NGOs in the Presence of International Judicial Authorities. *Law Quarterly*, 38(2).
- Slezkine, P. (2014). From Helsinki to Human Rights Watch: how an American cold war monitoring group became an international human rights institution. *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, 5(3), 345-370.
- United Nations for Human Rights Office of the High Commissioner. (2008). Selected Decisions of the Committee Against Torture, Reports of the Committee against Torture, Vol. 1. doi: 10.18356/9413cdd7-en.
- United Nations Human Rights. (2016). Monitoring the core international human rights treaties, Office of the High Commissioner.
- Wolfrum, R. (1999). The Committee on the Elimination of Racial Discrimination, Max Planck UNYB 3, 489-519.
- Zakerian, M. (2009). *Key Concepts of International Human Rights*. Tehran: Mizan Publications.

