The Post 1948 Human Right Enforcement Process: Challenges and Opportunities

Solomon Tefera

Lecturer of political Science, College of Social Science and Humanities, Ambo University, Ethiopia

DOI: 10.29322/IJSRP.13.08.2023.p14035
http://dx.doi.org/10.29322/IJSRP.13.08.2023.p14035

Paper Received Date: 18th July 2023
Paper Acceptance Date: 20th August 2023
Paper Publication Date: 26th August 2023

Abstract - At Global level, human right became main agenda since 1948 following the end of Second World War to protect and enforce human right international law, and proclamation has been adopted. However, the international law and proclamation that adopted to enforce human right were not applied. The aim of this paper, therefore, was to examine the post 1949 human right enforcement challenges and opportunities. The study employed qualitative research method. To organize the qualitative data, secondary sources such as journal articles, legal documents, governmental, books, non-governmental reports, and media outlets were used. A descriptive data analysis technique has employed. Accordingly, the study indicated that challenges of human right enforcement post 1948 were such as extremism/polarization, weak government institution, human right traffic, environmental degradation and asymmetric competition among great world power. The study gave further insights that there are a lot of opportunities that help to enforce human right such as expansion technology, media, and international human right advocacy. The study suggests that established strong international organization, law, strength the collaboration among international and local human right advocacy.

Index Terms - Enforcement, Human right, Post

I. INTRODUCTION

The World War I and II were roots causes for the establishment of human right organization. Particularly, the atrocities of World War II put an end to the traditional view that states have full liberty to decide the treatment of their own citizens. The signing of the Charter of the United Nations (UN) on 26 June 1945 brought human rights within the sphere of international law. Following the establishment of United Nation Organization, different human right agency established to enforce these human rights different treaties, agreement and convection have been signed and International human right law adopted. The prominent International Human Right Organization is Universal Declaration of Human Right was established in 1948. It established following the horrors of World War II reinforced the demands of early twentieth century internationalists to establish a global bill of human rights that would obligate "every state to recognize the equal right of every individual on its territory to life, liberty and property, religious freedom and the use of his own language." This idea was echoed in the stated aims of the newly formed United Nations in 1945. The Universal Declaration of Human Rights has inspired many individuals and policymakers around the world to work toward a better world. Today, there are around two hundred assorted declarations, conventions, protocols, treaties, charters, and agreements dealing with the realization of human rights in the world. However, these human right laws have been not enforced. Even though, at global level human right violation increase from time to time (Smith, 2006; Rhona, 2007 & Mugwanya, 2003).

The purpose of this paper is to examine the post 1948 human right enforcement at global level. Accordingly, the paper intended to answer two basic research questions. The first question, what are the challenges facing for human right enforcement at Global level? And second what is the opportunity that helps to enforce human right at Global Level?

To achieve the above objectives of the research, case study research design and qualitative research methodology were employed. The case study is a structure of research which focuses on investigating groups, event, institution, or culture (Deribsa, 2017). Stake (1995) argues that case studies, in which the researcher explores in depth a program, events, and activities a process, one or more individuals. Hence, the case study research design is an appropriate paper design that helps to investigate the post 1948 human right enforcement at International Level. According to Kothari (2004), qualitative research is interpretive in the sense that it attempts to interpret phenomena in terms of the meanings people attribute and draws conclusion through interpreting the data gathered from various sources. Another reason is that it does not focus on numerical information (Creswell, 1998). Hence, an approach of writing in which analysis and reflection are interwoven was applied (Bridges, 2002). In addition, secondary data sources employed for this study includes International Organization Charter, International law, USA State department reports on human right, relevant books, bilateral and multilateral agreements, journals, articles, and a variety of publications and magazines that report about the topic and these sources of data were selected based on their reliability and suitability to the study undertaken.
II. INTERNATIONAL LEGAL PERSPECTIVES CONSIDERATION

At Global level there are many International Organization that working on human right and these international Organization are working depend on International Law. Hence, this paper examined the post 1948 human right enforcement based on international and national perspectives. Particularly, it analysis based on United Nation Charter (1945), Universal Declaration of Human Right (1948), International Court of Justice, International Criminal Court, and Amnesty International Organization, which converse how the human right enforced at International and National Level. According to United Nation Charter under preamble stated that the main agenda of united nation Organization to avoid war protect fundamental human right, dignity and worth of human. In addition to this United Nation charter under article (18) stated that “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in Community with others and in public or private, to manifest his religion or belief in Teaching, practice, worship and observance (UDHR, article-18)”. Moreover, the primary goal of International Criminal Court and International Court of Justice guarantee human right at Global level. Hence, this paper analyzes the objectives of the research from the perspective of the above article contained in the United Nations and other documents.

III. HUMAN RIGHT AND INTERNATIONAL LAW

International Law consists of the rules and principles of general application dealing with the conduct of states and of international organizations in their international relations with one another and with private individuals, minority groups and transnational companies (Robert, 2020). International law is not just a result of few treaties of 19th and 20th centuries, but its origin can be traced back to ancient times (Mohd, 2021). Peace treaties between the Mesopotamian city of Lagash and Umma are considered as beginning of international law (Robert, 2019). Natural Law emphasized that certain rights are inherent to all humans, which helped in widening the scope of international law. Dutch Scholar Hugo Grotius (1981) argues that the ultimate aim of international providing for basic humanitarian rights (Hugo, 1980). However, International Law has not been strongly acted to protect human right at International Level.

IV. HUMAN RIGHT AND INTERNATIONAL ORGANIZATION

International Organizations are established by states through international agreements, and their powers are limited to those conferred on them in their constituent document. International organizations have a limited degree of international personality, especially vis-à-vis member states. They can enter into international agreements, and their representatives have certain privileges and immunities. The constituent document may also provide that member states area legally bound to comply with decisions on particular matters.

V. CHALLENGES AND OPPORTUNITIES ENFORCEMENT OF HUMAN RIGHT PROCESS

Under this section, the researcher attempt to analyze the challenges and opportunities that become hinder for the enforcement of human right as well as the opportunities that helps to enforce human right at national and international level are examined.

5.1. Challenges to Enforcement of Human Right

At Global level, human right became main agenda since 1948 following the end of Second World War to protect and enforce human right international law. Accordingly, proclamation has been adopted. However, the proclamation and human right law has not been implemented. The secondary data indicated that there are various challenges have been facing to enforce human right law at regional and globally1. Accordingly, an enlargement of polarization (religious and Political), weak government institution, human traffic, environmental degradation, and an asymmetric competition among great world power (Solomon, 2021). They are considered to the major challenges of enforcing human right proclamations.

Human rights enforcement takes place at two levels-national and international (Rhona, 2007). However, the need for international (regional) enforcement became necessary because the states ignored or neglected to make adequate laws for the promotion and protection of human rights. Hence, international and regional enforcement mechanisms were developed as safety nets for enforcement (Smith, 2006). However, upon ratification of either the international or regional treaty on human rights, a legal obligation is expected of states without exemption to implement human rights standards. It has been argued that the international human rights system’s approach to enforcement and implementation has proven unrealistic in a world characterized by oppression, abuse of power and corruption, armed conflict and poverty (Mugwanya, 2003).

Today, the ideology competition among the capitalist camp which is led by United State of America and Socialist Camp which led by China become vulnerable to human right violation at global level (Obodo, 2014).

5.2. Opportunities to Enforcement of Human Right

The period following 1948 provided numerous opportunities for the upholding of human rights these opportunities includes that technology development, expansion of human right institution, economic integration, expansion of education, and development of media (Marks, 2006; Smith, 2006; Solomon, 2019). According to Acemoglu and Robinson (2012), institution is a guaranteed for human right (Acemoglu and Robinson, 2006). Another scholar named marks argued that can protected through establishing strong democratic and human right institution especially by establishing judiciary system (Marks, 2006).

---

1 Speech by UN high commissioner for Michelle Bacheleef at Geneva, 2019.
VI. RECOMMENDATIONS AND CONCLUSION

Since the 1948 Universal Declaration of Human Right (UDHR) established, various laws adopted at regional and International level. However, these laws could not be implemented. The challenges that facing human right enforcement at global level such as an enlargement of polarization (Political and religious), weak government institutions (democratic and human right institution), human traffic, environmental degradation, and an asymmetric competition among great world power. In contrary to that, there are various opportunities that help to human right enforcement. Accordingly, this paper identified development of technology, expansion of human right institutions, and expansion of education and development of media. Today, one of the challenges of human rights is that it demands new ways of thinking. The enforcement of basic human rights remain one of the most pressing and yet most elusive goals of the international community. Hence, for the enforcement of human right it need inclusive international community cooperation, strength the capacity of international organization, encourage media, take a serious measure on the state violate human right. To enforce human right there is a need to empower institution of justice such as Court. Therefore, the institutional framework provided by the United Nation Charter to promote and ensure enforcement and compliance could either be seen as inadequate are underused.

REFERENCES

[1] Introduction to International Law Robert Beckman and Dagmar Butte, 2020
[8] Human Rights:

AUTHORS

First Author – Solomon Tefera, Lecturer of political Science, College of Social Science and Humanities, Ambo University, Ethiopia, solomont572@gmail.com