HUMAN RIGHTS TREATY IMPLEMENTATION AND COMPLIANCE: COMPARATIVE STUDY

Abstract

Human rights are generally fundamental rights that provide insight into the influence of the social, economic and political effectiveness of a state. This report expresses a comprehensive analysis of the compliance and implementation of the human rights treaty on a national and international scale. An extensive idea about the persistent challenges and their composition on human rights was found by analyzing the secondary qualitative data. This report offers relevant recommendations for strengthening and improving the enforcement of the treaties and their compliance with human rights. These recommendations also foster and administer the activities of the global organizations that work with fundamental rights to ensure them properly. This report highlights the paces that influence the compliance and formation of treaties based on fundamental rights. This report provides discernment on the obligation of states to protect individual citizens as well as the community from human rights abuses. This obligation acts as a means of fulfilling the necessary required actions against brutality and inhumanity. This report will directly or indirectly assist the state governments in providing adequate incentives to the citizens and facilitating the amusement of the basic fundamental rights of the individuals.

Keywords: Human rights treaty, qualitative time series and cross-sectional data, gender distinction, fundamental human rights, recommendations.

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Introduction

The agreement that is signed formally between the two states, explaining how a state can manage its affairs on the outbreak of an issue is referred to as a Human rights treaty. The treaties are signed by two states on an ad hoc basis, in the presence of a committee of experts. The protection of human rights has been an issue of concern in the early 20th century to the international community of human rights [1]. A league of nations has been established under the .369First World War and attempts have been made by this league to establish an international framework along with the regulating mechanisms. The fears that have been spread across the world during World War 2 have motivated human rights to ensure that the brutality seen during the Second World War is not repeated. Moreover, the human rights committee has decided to form an international system to protect the human rights of the people globally. The United Nations charter proclaimed that the purpose of the committee is to respect and promote human rights for all. A universal declaration of human rights was made in the year 1948 and has been adopted by the general assembly[2]. The Document of Universal Declaration has defined standards of achievements that are common for all countries and people. The document of human rights sets out a wide range of rights for the people, which covers every aspect of life.
The Human Rights Declaration describes the idea of fundamental rights of human beings, stating that all human beings have the right to enjoy their freedom and are entitled to equal dignity and rights. The declaration made by the human rights committee is widely accepted in international law. For example, there are laws that have been laid down internationally to

[1] McGregor, L., Murray, D. and Ng, V., 2019. International human rights law as a framework for algorithmic accountability. *International & Comparative Law Quarterly*, *68*(2), pp.309-343.https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/international-human-rights-law-as-a-framework-for-algorithmic-accountability/1D6D0A456B36BA7512A6AFF17F16E9B6

[2] Pinto, M., 2022. International covenant on economic, social and cultural rights. *United Nations Audiovisual Library of International Law, disponível em https://legal. un. org/avl/pdf/ha/icescr/icescr_e. pdf, acesso em*, *11*(01). https://legal.un.org/avl/pdf/ha/icescr/icescr_e.pdf

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prohibit torture and racial discrimination. The human rights declarations that have been made are legally binding agreements and cannot be taken for granted. During the declaration of human rights, an agreement explaining the transformation of the rights into legal form has already existed [3]. The declaration of human rights directly binds the state to agree to the terms and conditions. Human rights are considered essential for the protection of the rights of the people irrespective of their gender and religion. The rights embody key values such as dignity and respect and allow people to live a peaceful life. Human rights give power to the people to fight against any odds and protect themselves from any kind of poor treatment[4]. The vulnerable sections of society can be best protected with the help of human rights. History reveals Jewish population is the most vulnerable section to abuse and human rights have played a significant role in the protection of these communities. The human rights concept gives confidence to people to speak up whenever they experience any kind of abuse. One of the specific human rights such as the right to assemble is essential as none of the societies in the world is perfect.

Literature Review

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Procedures followed in the implementation of the human rights treaties

The role of the human rights treaty committee is to critically analyses the reports created by the state parties of the state and solve the problems pertaining to human rights violation[5]. There is a need for the state parties to regularly submit reports about the state's progress to the International Treaty Committee of Human Rights. The report that is submitted by the state to the international treaty committee is regarding the problems incurred during the treaty implementation. A provision has been presented in the international treaty to complain about any kind of human rights violation in the state. The human rights treaty committee acts as the most significant source of regulating the agreements in the state. The term human rights have been mentioned in the United Nations founding charter, which does the promotion of human rights. The United Nations Charter considers protecting human rights as the guiding principle of the organization. The principles laid down in the Universal Document of Human Rights have made human rights included in international laws. The Commissioner's Office of Human Rights is located in Geneva and it takes responsibility for the promotion and protection of human rights[6]. The office makes its best efforts to support the components that maintain peace globally. The Commissioner for Human Rights regularly comments on the issues that the world has been facing in the context of human rights.

The Commissioner's office has the total authority to examine human rights issues and publish reports related to them. The human rights treaty body consists of a competent and independent

[3] Lawson, A. and Beckett, A.E., 2021. The social and human rights models of disability: towards a complementarity thesis. *The International Journal of Human Rights*, *25*(2), pp.348-379. https://www.tandfonline.com/doi/abs/10.1080/13642987.2020.1783533

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[6] Meier, B.M. and Brás Gomes, V., 2019. Human rights treaty bodies: Monitoring, interpreting, and adjudicating health-related human rights. *Human Rights in Global Health: Rights-Based Governance for a Globalizing World (Oxford University Press 2018)*. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3395841

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team of experts who are nominated for fixed terms by the state parties[7]. Special procedures laid down by the human rights council are prominent and the experts work on a voluntary basis to report on human rights. The Universal Declaration of Human Rights is the first legal document that was founded in the year 1948 for the protection of human rights. The foundation of international human rights law is the Universal Declaration of Human Rights. Democracy is considered to be one of the important instruments of human rights adoption which is based on the rule of law. The ultimate goal of democracy is to achieve international security and peace. Furthermore, democracy helps in the development of the country along with social progress. The world summit that was held in the year 2005 stated that democracy is based on freely expressing the views of people [8]. The public views can be related to the social, cultural and economic systems of the country. Democracy allows the people to participate in all aspects of their lives, particularly stressing respecting human rights. The norms that have been laid down in the United Nations regarding human rights are fabricated by the layer of democracy. A framework has been set by the United Nations for democracy which is based on universal standards and norms. Various human rights conventions under the human rights frameworks have resulted in the formation of mechanisms which comply with the human rights laws. The mechanism based on a treaty is one of the supervisory mechanisms which is laid down in the human rights instruments which is legally binding. The United Nations framework operating within these mechanisms is referred to as a treaty body [9]. One example of the treaty body is the Committee of Human Rights the committee formed regarding the rights of a child. Moreover, the "European Court of Human Rights" is another example of a treaty body along with the "Inter-American Court".

The non-treaty-based mechanism is a supervisory mechanism which is not legally binding with the obligations of the human rights treaty. Generally, the non-treaty-based mechanisms are based on the intergovernmental human rights procedures of the constitution. Non-treaty mechanism is further based on the decisions taken by the administrative bodies of a country. The treaties of most human rights include a periodic form of reporting and the state parties are obliged to report to the supervisory body in a timely manner. A general guideline has been formulated at each treaty level related to the content of the state reports and the procedures laid down in the state reports. The human rights reports are analyzed by the related supervisory body and they further give comments on the reports. Moreover, the supervisory body may further allow the state to publish more information related to human rights violations whenever required[10]. The procedures followed are different from the mechanisms followed in the treaties. The purpose of reporting in the treaty-based mechanisms is to provide positive conversation between the states and the treaty bodies. Furthermore, there is a variation in the quality of reports sent by the states to the treaty bodies. There are some reports which give information on the serious issues in the state and some reports lack credibility. The reports furnished by the

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[9] Svensson-McCarthy, A.L., 2021. *The International Law of Human Rights and States of Exception: With special reference to the travaux préparatoires and case-law of the international monitoring organs* (Vol. 54). Brill.https://books.google.com/books?hl=en&lr=&id=bLFFEAAAQBAJ&oi=fnd&pg=PR1&dq=Moreover,+the+supervisory+body+may+further+allow+the+state+to+publish+more+information+related+to+human+rights+violations+whenever+required&ots=hBVJYW8aH0&sig=bRmyaPJj77gd9hP2PFhIkvutw-0

[10] Sedacca, N., 2019. The 'turn'to criminal justice in human rights law: An analysis in the context of the 2016 colombian peace agreement. *Human Rights Law Review*, *19*(2), pp.315-345. https://academic.oup.com/hrlr/article-abstract/19/2/315/5540028

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states reflect the condition of human rights practices in the state. The compliance of the reports submitted by the state is marginal, irrespective of the report quality provided by the state. Furthermore, many reports are submitted late by the states for many years and there are some states that do not submit any reports at all. The human rights committee gets information about the situation of human rights in a state through other sources, whenever a report is not submitted by the state. The quality of decision-making by the experts highly depends on the additional information received by the experts from other sources. The resources in this context are NGOs and other agencies set up by the United Nations. The United Nations agencies help the treaty committee members to form a wider perspective of the situation of human rights practices in the state. The NGOs report to the treaty committee by preparing an alternative report with the aim of balancing the information furnished by the state. Therefore, with reference to the information received from all sources and states, the committee evaluates the reports by discussing human issues with the government representatives.

The significance of human rights in maintaining peace in a state

Human rights play a significant role in solving the conflicts that are going on in the world globally and reducing polarization among the people. The United Nations have a huge experience in facilitating peace giving a positive result. The treaties that have been formed by the treaty committee and states have given mixed results [11]. Some of the treaties laid down have resulted in long-term peace, while other treaties have shown disputed results. Human rights can play a significant role in making the efforts to maintain peace more effective. Despite the inherent connection between human rights and conflicts, human rights are often considered an obstacle to maintaining peace negotiation efforts [12]. The smooth functioning of human rights practices is heavily dependent on the political condition of the state. Human rights can not only form a strong foundation for ending violence but also help in shaping the negotiation process to maintain sustainable peace in the future. The violation of human rights is mainly seen due to the onset of violence in the state. Therefore, it is essential for the states to maintain peace in order to protect the human rights of the people. The United Nations Charter has prioritised some objectives that can help to maintain peace in the state. One of the objectives is to maintain peace with respect to compliance with international laws and procedures for justice. The breach of peace in the international borders is observed due to the disputes that have been existing internationally. Human rights can help to solve the problem of international barriers and should be a part of the peace-making process globally. Peace agreements are made by the United Nations, which serve the purpose of ending the violations of human rights in a state. However, it is highly important to understand the concept of peace before implementing its principles in the protection of human rights. As per the United Nations, peace cannot be defined as the absence of violence in a state. The vision of the United Nations is to form a strong root of peace in the country. Moreover, the aim of the United Nations is to create a strong base of peace across the world and prevent the recurrence of violence globally. Sustainable investments are made by the United Nations for the purpose of social and economic development. The concept of human rights includes the spectrum of cultural, political and economic rights, resulting in the positive goal of attaining peace. A positive perception of human rights needs to be ingrained in the mindset of the people by providing a holistic understanding of the human rights concept. Furthermore, a holistic understanding can help the committee to form a potential solution to the political problems. One of the methods to maintain peace is to address the grievances of the

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[12] Wilson, E., 2021. *Identity, Resilience and Social Justice: Peace-making in a Neoliberal Global Order* (Doctoral dissertation, University of Cambridge).https://www.repository.cam.ac.uk/handle/1810/332955

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people in the state. A conflict resolution team can be formed in the state and priorities the process of solving the immediate concerns of the people.

The regular analysis of human rights can help the experts in the treaty body to promote the process of maintaining peace comprehensively. Solving the security concerns of the people can help in reducing the structural violence in the state by focusing on political equality and social justice. Colombia is one of the countries that has been successful in following human rights practices, especially with respect to economic and social rights [13]. This country ensures that the final treaty made by the human rights committee addresses the grievances of the people in the country. The main theme of formulating human rights is to respect human rights practices and this is the goal that can be promoted by every state in a country. However, human rights have been found to obstruct the process of peace in the country as people develop negative perceptions about human rights.

Various human rights approaches have been laid down by the human rights committee and can be helpful for the mediators in many ways. Human rights concepts provide an alternative framework and can be accepted in a way that is universally accepted by people all over the world. Promotion of a common understanding of the grievances of the people and other relevant issues can make the people feel that their problems are being valued by the state. A right-based framework can be established, which provides detailed guidance on how a state can protect certain rights of the people [14]. Regular monitoring of human rights can instill confidence among the people by giving an unbiased solution to the problems. Moreover, the polarized narratives of the state parties can be easily identified by continuous monitoring of human rights. Mediators of human rights can positively navigate the narratives of the people's grievances to maintain peace in the state. Human rights can serve as a foundation of building trust by initializing the agreement on some specific issues such as behavior with the detainee. A framework of dialogue can be formed with the help of human rights by creating a safe space for discussing the prevention of violence[15]. Human rights mechanisms and instruments provide the opportunity to directly engage with the authorities of the state to end conflicts among people. The people involved in the human rights committee can establish valuable networks on the grounds of maintaining peace in the state. Important links can be maintained by the human rights institutions with a number of civil society and other representatives of the community. Human rights are all about maintaining a good relationship with the people belonging to various communities. A positive engagement with the people puts the human rights actors on the front line to interact with the parties before the involvement of the mediators. An active engagement is necessary to maintain with the actors of human rights to reduce conflicts among the people before the involvement of mediators.

Methods

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[14] Miller, H. and Redhead, R., 2019. Beyond 'rights-based approaches'? Employing a process and outcomes framework. *The International Journal of Human Rights*, *23*(5), pp.699-718.https://www.tandfonline.com/doi/abs/10.1080/13642987.2019.1607210

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A qualitative research methodology has been followed in the study which involved the collection of non-numerical data for understanding the concept. The qualitative research method is further known as secondary research and has been used in the research to gain valuable insights about the study. Primary research, which is known as quantitative research, has not been conducted in the study as it is not found to be feasible. Qualitative research involves the collection and analysis of live data and it is completely opposite to that of quantitative research. Qualitative research is one of the most common methods used in the field of social science and humanities. The secondary data analysis has been used in the research to understand the people's experiences of human rights. Various approaches to secondary data analysis are available and the aim of this research analysis is to properly interpret the data. One of the qualitative research methods includes the observation method, where the details of the research are recorded. Furthermore, the interview method is one of the effective qualitative data analysis methods, where face-to-face interviews are conducted with the people having the domain knowledge [16]. The researchers who conduct the qualitative data analysis are often referred to as instruments, as the researchers make the observations through their personal lens. It is important for the researchers to reflect on their approach to clearly explain the choices for analyzing the data. The type of secondary research that has been followed is the explanatory type of research. Secondary data analysis can be considered as the collection of data in the form of videos, texts and audio. Secondary data analysis in the present study further included data collection from various research articles and websites. Efforts have been made in this study to follow the ethics and maintain the decorum of the research. Analysis of secondary data preserves the perspectives of the respondents by not disclosing it to others. Qualitative research that has been conducted is flexible and this method can be adopted for generating novel ideas. Moreover, secondary data collection has helped in generating meaningful insights into the researcher's experiences of human rights. The secondary data that is collected has been continuously examined for patterns to understand the mindset of the researchers regarding human rights. The observations that have been noted have helped in analyzing the experiences of the researchers about human rights.

Secondary data analysis on human rights treaty implementation and compliance provides a valuable research exertion. This study approaches descriptive research to qualitative dimensions of socio-economic coverage of human rights implementation. In the time of doing the qualitative analysis of secondary data, some steps have been followed to collect and analyses the data properly. First of all, specify the objective and purpose of the study clearly and then set up the questionnaire with the necessary questions related to human rights treaty implementation. Then, collect the relevant data from secondary sources such as relevant research papers, academic articles, newspapers, related reports, data from governmental and non-governmental organizations (NGOs), and specialized and organized human rights databases. Some of the data was also collected from the relevant database of the World Bank.

Then, conduct a comprehensive and elaborate review of the existing relevant literature and journals to conduct a comprehensive analysis of human rights and to accumulate and put the essential data in this study to make this study more approachable to all. After collecting the data, the filtration of data is also governed to remove the unnecessary and irrelevant data from the dataset and to incorporate the proper and congenial data that is accurately formatted for this study. Accumulating and analyzing the existing and compatible literature, this study also tries to find the necessary gaps and bridge those gaps with suitable approaches and recommendations. After that, utilize the analyzed data and statistical methods to examine the

[16] Kee, K.F. and Schrock, A.R., 2020. Telephone interviewing as a qualitative methodology for researching cyberinfrastructure and virtual organizations. *Second international handbook of internet research*, pp.351-365. https://link.springer.com/content/pdf/10.1007/978-94-024-1555-1_52.pdf

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patterns and trends of the data on human rights treaty implementation and compliance. The time series and the cross-sectional secondary data are collected and analyzed to make the dataset more accurate and research-friendly. After conducting the proper systemization of the dataset, essential loopholes and recommendations were also provided to make the study more acceptable on national and global platforms.

Results and Discussions

The analysis and examination of a report on human rights treaty implementation and compliance by a state is necessary cause this report will shed light on the periodical data on human rights in a concerned state. Conducting the data analysis clearly and effectively, the compliance rate can be shown across the time, region and state. The time series data helped to get the data on human rights treaty implementation and compliance from time to time, and the cross-sectional data helped to get the data on human rights treaty implementation across the region, area and state. Qualitative time series and cross-sectional data show positive (and negative if they exist) compliance with the human rights treaties. Analyzing the qualitative data properly collected from various literature, journals, reports and newspapers, it can be said that the formulation of treaties can be influenced by some indicators, including social indicators, economic indicators and political indicators. Social indicators such as regional disparity, gender and class discrimination, and differentiation in the community can negatively influence the human rights treaty formation. Economic factors such as income discrimination, wage accumulation depending on caste, class and gender, distinctions in providing job opportunities, and both the national and international economic recession act as an altered influencer in the formation of the treaty on human rights implementation and compliance. The political instability that arises due to the conflict between the state and central governance and the combat between different countries can disrupt the initiative of the formulation of the treaty on human rights. The role of internal organizations is also considered a crucial influencer in the formation of a treaty on human rights implementation and compliance. The result of the examination and analysis gave a clear insight into the effect of those indicators in the formulation of the treaty. Analyzing the regional variations in compliances across the region shed light on the disparity among the regions where many types of distinctions are present, such as class discrimination, class discrimination, complexion distinction and communal avoidance. These distinctions will stand up the government in front of the questions comprising their governance with sovereignty and equality. Examining the patterns and trends of the compliance rate, it can be calculated that compliance has deteriorated or progressed due to the change in time and subliterary and handover of governance from one political party to another. Understanding gender discrimination due to the influence of the political nature and the alteration of socio-economic factors, qualitative data on this sensitive gender distinction issue is collected periodically. Framing a relevant dataset on the data based on the number of males and females across the region and state their participation in the workforce and their wage disbursement.

Identification of the barriers in the path of improper implementation of human rights is more than necessary to generate equality in the nation. It is also necessary to look out for the challenges that arise in the removal of those barriers and the incorporation of human rights properly so that all citizens can have full and proper access to their own human rights. Highlighting the instances and vindications that act as a stimulator of the progression in compliance with the formulation of the human rights treaty so that these instances can be utilized in future. The comparative field of politics contributes significantly to the area of qualitative secondary research both methodologically and periodically. The distinct and

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exclusive inferences about the maintenance of human rights are not only at the national level but also worldwide.

Treaties of the UN related to human rights are- The International Covenant on Civil and Political Rights (ICCPR), The International Convention on the Elimination of All Forms of Racial Discrimination (CERD), The International Convent on Economic, Social and Cultural Rights (ICESCR) and many more. There are eight bodies of human rights treaties that possess their allocative responsibilities to ensure basic human rights[17]. These bodies are as follows:

1) Human Rights Committee, 2) Committee on the Elimination of Racial Discrimination, 3) Committee on the Right of Persons with Disabilities, 4) Committee on Social, Economic and Cultural Rights, 5) Committee on Migrant Workers, 6) Committee on the Elimination of Discrimination Against Women, 7) Committee on the Rights of the Child and 8) Committee against Torture.

International human rights treaties come up with an organized set of human rights that is admitted internationally. It also vindicates an agreed mechanism and management for proper monitoring of the functions and activities of these treaties. These treaties thoroughly scan the actions of the committees spreading worldwide in the context of actual implementation of the planned objectives taken over human rights. This report expresses an overview of the legal framework of the implementation of human rights and promotion of rules of law within a country. It also includes the necessary constitutional provisions, legal rights and domestic laws.

Many countries face significant constraints in the area of proper effectuation of human rights obligations and promoting rules of law. These constraints arise due to the scarcity of capacity and resources. Political intention is necessarily required to acquiesce with the treaties of fundamental human rights. However, this political will diversifyingly varied among the countries, which can hinder the appropriate implementation of those treaties' actual planning. Jens Modvig, who is the Chairperson of the Committee Against Torture, expressed disappointingly that 28 states had never submitted their reports to the committee[18]. Malcolm Evans is the Chairperson of the subcommittee on the Prohibition of torture and other inhumanity, detoriative treatment and cruelty. He invigorated caution and attention to take steps against the inhuman, abusive and brutal incidents that occur all over the world. The social and economic problems, such as unemployment, lack of job opportunities, communal discrimination, and unequal distribution of resources across the region, issues in the availability and accessibility of essential resources such as health and education, can hinder the promotion of human rights. It is essentially important to note that the constitution of human rights treaties and their compliance varies across the countries depending on their social, economic and political activities. The development of economic effectiveness and removal of social discrimination by incorporating positive political willingness is necessary to secure the human rights of all human beings on both national and global platforms. Laws on social security and different schemes for social equality can provide means to recreate communal equality regardless of class, caste, gender and community. So, it is crucially important to mitigate those

[17] Un.org,2019, *Peace, Dignity and Equality* available at: https://www.un.org/en/global-issues/human-rights, [Accessed on: 30.10.23].

[18] Ohchr.org,2019,*Statement by Mr. Jens Modvig, Chairperson Committee against Torture, at the 72nd session of the General Assembly* available at: https://www.ohchr.org/en/statements/2017/10/statement-mr-jens-modvig-chairperson-committee-against-torture-72nd-session, [Accessed on: 30.10.23].

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economic and social constraints to step forward towards the upbringing of the economy and society in order to achieve fundamental human rights completely.

Conclusion

After summarizing the key findings of this report, it can be concluded that this report plays a crucial role in providing a qualitative analysis of human rights formation. Human rights are valuable fundamental rights that are considered the inbred rights of the citizens in a concerned country throughout the world. These fundamental rights involve the right to freedom, right to equality, right to freedom of religion, right against exploitation, right to work and access to education and last but not least, the right to constitutional rights. The right to property was also considered a fundamental right, though it is more suitable as a legal right. Human rights treaties are basically designed to promote and protect fundamental rights at both national and international levels. Compliance of the countries with these treaties is essential for ensuring and conserving the fundamental rights of all individuals and flourishing the obligations on rules of law globally. This report expresses the accountability of the governments for ensuring human rights obligations. This report serves some essential resources to the policymakers and international organizations that act as a voice for human rights. This report can help them to take action in protecting fundamental rights and promoting justice all over the world. The Universal Declaration on Human Rights (UDHR) is considered as the milepost breakthrough in the history of fundamental human rights [19]. The UDHR was drafted by the representatives of all the regions and communities with differentiation in cultural and economic backgrounds of the words. UDHR helps to spread out the fundamental human rights and rules of law worldwide so that these rights and laws will be ensured globally.

The UN Commission on Human Rights was replaced by the Human Rights Council, which was established on 15th March 2006 by the recommendation and interference of the General Assembly. This Human Rights Council came up with opportunities for each country to present the layout of their reports and the challenges that they are facing in the application of human rights among the citizens. This council also provide remedies to the countries to improve the fundamental human rights situation in their state and to converge with their global obligations. The evaluation of this council is specifically customized to promote universality and to ensure the treatment of equality for all countries in the world. The formation of human rights treaties and compliance in favor of the implementation of those fundamental human rights paved the way for an increase in the social and economic progression rate of every country. Finally, it can be concluded from the entire analysis that the establishment of these treaties is essential for ensuring coordinative relations between the countries throughout the world.

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