

Human Rights and Global Governance: Challenges in Implementing Universal standards

Priyanka Mazumder

Assistant Professor, Vivekananda College, Thakurpukur, University of Calcutta, West Bengal, India. Email Id mazumder23.priyanka@gmail.com, ORCID ID: 000-900-655-764-237

Article Received: 11/02/2022

Article Accepted: 05/03/2022

Article Published: 21/06/2022

ABSTRACT

While human rights have today become a major component of the global governance system, the application of universal standards has been more or less successful in law, in politics, in institutions and culture. This review analyzes the development of international human rights norms, the institutional structure under which they are enforced and the gap between formal and effective protection. Special attention is paid to state sovereignty, differentiated domestic incorporation, to the monitoring of treaties, national human rights institutions, migration governance, corporate accountability, climate justice, digital governance and artificial intelligence. The review also takes into account the challenges faced in the universal application of rights due to cultural relativism, regional differences, emergency powers and unequal institutional capacity. Current pressures show that it is not so much a lack of normative frameworks that is the problem, but rather the effectiveness of implementation, monitoring and remedy. Improved coordination of international and domestic institutions, more credible follow-up mechanisms and deeper involvement of civil society, better data systems, rights-based corporate due diligence and transparency of new technologies are needed to strengthen the governance of human rights globally. The review calls on the maintenance of universal norms in the field of human rights governance; the creation of context-specific, accountable and enforceable mechanisms to translate international standards into protection for individual and community rights in different national contexts today.

Keywords: Human rights; Global governance; Universal standards; Accountability; Implementation; International institutions

1. INTRODUCTION

Human rights are considered a cornerstone of global governance which offers a structure for dignity, equality, freedom, justice and accountability in governance. With the advent of universal standards, the role of the individual, the nation state, international bodies and non state actors has changed and the role of the protection of rights has become a global issue. However, there have not been uniform practices in implementation with accepted norms. Ineffective implementation of international commitments at the domestic level is due to political polarization, institutional shortcomings, conflicting interest and its uneven enforcement. These tensions have been compounded by the emergence of populist and nationalist political views that threaten to undermine the multilateral checks and balances of external human rights oversight and depict it as a violation of domestic sovereignty (Alston, 2017).

A challenge to the implementation of universal standards is that of universality vs cultural diversity. The international human rights frameworks are founded on the idea that some protections are just as applicable to everyone, and that they do not depend upon culture, religion, nationality or political system. In practice, it can be at odds with traditional practices, institutions, and worldviews of social order among indigenous peoples. Indigenous communities provide examples of this as collective identity, customary authority and cultural autonomy do not necessarily cohere into a comfortable fit within the frameworks of existing rights (Colchester, 2021). This in turn relies on the capacity to maintain the fundamental protections of human rights and respect cultural and social differences in the world's governance on human rights issues.

This is complicated by the ethical question of whether the universalism or cultural relativism is correct. A universalist approach that is overly rigid could fail to see local contexts and traditions and does not consider them; while a very flexible and relativist mindset could allow for discrimination and repression to be justified by culture. There is a growing trend in contemporary scholarship that strives to strike a balance between the universal and the culturally-specific in relation to human dignity, or, as Johansson Dahre (2017) puts it, between universality and culturally informed interpretation and dialogue. It is important to do so because human rights standards don't take effect until translated into legal, institutional and social practices at the national and local level.

Globalization has included more actors and more policy fields to those involved in the protection of human rights. Migration, for instance, draws attention to the limits of territorial sovereignty, because it involves a situation where legal responsibility is interwoven with governmental institutions and agencies in the border region, as well as between states and international organizations. Fragmentation and contestation of jurisdictions and accountability can lead to migrants, refugees and displaced persons experiencing detention, exclusion, deportation or other risks to

their rights (Costello & Mann, 2020). The pressures indicate that mechanisms for implementation of universal standards must be border-crossing and not only take a national approach.

Human rights have a link to sustainable development. Poverty, inequality, environmental degradation and access to resources can have an impact on dignity and the enjoyment of social, economic and political rights. The rights-based approach to development is based on participation, equality, inclusion and accountability, and it aims to connect development outcomes to the responsibilities for justice (Arts, 2017). This connection has expanded the territorial reach of global human rights governance and is creating need for ever more coordination between economic and social institutions.

Another challenge in implementation is the increasing power of the multinationals. The desired laws are not always enforced in the areas where they are needed in the transnational supply chain, creating a lack of responsibility and remedy. The United Nations Guiding Principles on Business and Human Rights constitute an important framework, but their implementation at the national level, and institutional coordination, are important for the effective implementation of these principles. (Augenstein et al., 2018) To prevent globalization from detaching business from social responsibility, the right to contract and economic governance need to be taken into account (Baxi, 2017). The idea for a binding international treaty also shows why there are moves to make companies more accountable and more fully responsible for their actions, beyond what happens on a voluntary level (Bernaz, 2021).

There is a need for human rights governance to deal with multiple disadvantage. Exclusion can happen across multiple dimensions (for example, gender, race, class, ethnicity and migration status) and can only be understood through multiple categories. The intersectional approach to human rights deepens and enhances the universal concept of human rights by making visible the potential for differential impact that seemingly neutral systems can have on distinct groups (Bond, 2021).

Urgent governance challenges due to environmental change. Rights to life, health, food, water, housing and livelihood are also becoming more vulnerable to the impact of climate change, which disproportionately impacts vulnerable groups. The intersection of climate governance and international human rights law illustrates two issues: that environmental protection and rights protection cannot be treated as distinct areas anymore (Boyle, 2018); and the other is that the right to a healthy environment is a human right that has implications for climate governance (see ECHR, 2018). In this context, the review explores the normative and institutional underpinnings of global human rights governance, the key political, legal, cultural, economic and structural challenges to achieving universal standards and potential reforms to improve accountability, legitimacy, consistency and inclusiveness in global human rights governance.

2. Normative Foundations and Evolution of Universal Human Rights

The current human rights system is based on a normatively structured framework built up in and through international conventions, reporting systems and changing norms of state obligations. While universal standards remain on the level of rhetoric and assertions, there are now mechanisms of reporting, review and accountability, which seek to determine if governments are living up to their commitments at home. This is important because while treaties contribute to the legitimacy of global human rights governance, so do the ability to monitor implementation, to find lacunae, and to create pressure to comply. Human rights standards are thus now entrenched in international governance, where there is a mix of legal obligation, political oversight and institutional review.

One of the main features of this development is the connection between the ratification of treaties and state behavior. Ratification represents a form of acceptance of the obligations of international law, but of little practical effect unless states make them part of the law, institutions and policy. There is strong evidence that the link between commitment to a treaty and compliance with it is more nuanced than simply following or breaking the rules, since standards of accountability change over time. The level of international monitoring is becoming more challenging, so states can be rated badly even if they are doing well, as the expectations and monitoring practices are toughening up. Compliance with human rights needs to be understood in the context of evolving institutional and normative developments, and not in the context of static standards (Fariss, 2018).

The Universal Periodic Review (UPR) is now a central tool which turns universal standards into regular monitoring. It encourages peer review of all member states of the UN, which will decrease selectivity, and it strengthens the principle that obligations in terms of human rights are not special in nature. But effectiveness requires state involvement, recommendations, and if outcomes of review affect domestic reform. South Africa's experience shows that while it may be possible to comply with reporting requirements, it can also be possible to do so without tackling substantive issues. This opens the way to "ritualistic" engagement, which falls short of implementation (Etone, 2017). The concept of human rights accountability has also been linked with development governance at the global level. Sustainable Development Goals include poverty, health, inequality, education, gender, institutions and environmental sustainability, many of which directly relate to existing human rights commitments. Human rights accountability reviews have the potential to enhance SDG monitoring in the linkage of development indicators to legal obligations, non-discrimination, and participation and access to remedy. This approach is a shift from aggregate progress, so it is crucial to question: who benefits, who is being left behind, and what are governments doing to fulfil their responsibilities towards vulnerable groups (de Mesquita et al., 2018). This intersection exemplifies the way in

which universal standards are increasingly influencing policy areas that were traditionally considered outside of the "rights" framework.

Technological change has broadened the scope of human rights governance to a normatively extended set of relations. AI poses privacy, surveillance, discrimination, political participation, freedom of expression and accountability issues regarding automated decision making. Traditional state-based frameworks might not be enough due to the potential cross-border nature of AI systems and their potential private sector development. Human rights norms are thus used to assess if the technological innovation is respecting dignity, equality, transparency and freedoms of democracy. Increasingly, the rights-based governance becomes more important in order to counter the growing influence of automation and whether technological efficiency outweighs fundamental rights (Donahoe & Metzger, 2019).

Another field where the meaning of human rights obligations are being reconceived and expanded is in the field of environmental governance. Climate change poses threats to life, health, housing, food, water and cultural survival, and this is putting pressure on the understanding of the need for mitigation as a legal obligation. The fact that human rights treaties could hold States accountable for their greenhouse-gas emissions is an important development in the scope of international human rights treaties' normativity. This not only links environmental damage to state responsibility to act to safeguard people against known threats but will increase the legal underpinnings for climate accountability (Mayer, 2021).

Together these developments indicate that the universal standards for human rights are not absolute and are not only limited to civil and political rights. They evolve continuously with the development of treaties, peer review, monitoring of development, technological governance and environmental responsibility. The normative basis of global human rights governance has subsequently expanded and is more interdependent; and the implementation has now a greater reliance on the responsibility of institutions and the readiness of States to turn the promise of global rights into effective protection at the domestic level.

3. Institutional Architecture of Global Human Rights Governance

Global governance of human rights has become multi-layered, with the institutions of States, international and regional organizations, courts, corporations and civil society having overlapping responsibilities for the protection and promotion of human rights. Modern governance is not monistic, but relies on multiple (overlapping) institutions to establish norms, enforce them, mediate meanings, and provide means for accountability. This is a plural structure that is born out of the transnational nature of many human rights issues, but also contributes to a fragmentation, to unequal implementation, and to confusion over responsibility. Thus, for good governance to happen on the global level, the interactions between institutions at both international and regional levels as well as within the nation itself must be coherent.

These institutional conflictualities are well captured in the case of company regulation. MNCs often have complex supply chains that span various jurisdictions and have varying labour standards, environmental protection, and enforcement. While a number of frameworks including the United Nations Guiding Principles on Business and Human Rights have been developed to articulate expectations about States' responsibilities and corporate responsibilities, there is a lack of consistency in their implementation. Commitment by governments and governments alone, ineffective monitoring and jurisdictions gaps can make it possible for harmful practices to continue and fall beyond the reach of effective remedies. Improved governance thus demands closer links between international principles, domestic laws, corporate endeavours, and easy to use mechanisms to seek remediation for workers and communities impacted (Nolan, 2017).

Table 1. Institutional Architecture and Implementation Challenges in Global Human Rights Governance

Governance Dimension	Principal Actors	Core Governance Function	Key Implementation Challenge
International Human Rights Governance	UN bodies, treaty mechanisms, international organizations	Standard-setting, monitoring, and review	Limited enforcement and uneven state compliance
Corporate Accountability	States, multinational enterprises, regulators	Due diligence and responsibility allocation	Jurisdictional gaps and weak access to remedy
Migration Governance	States, regional bodies, international agencies	Protection and regulation of cross-border mobility	Tension between sovereignty, security, and rights
Regional Human Rights Systems	Regional courts, commissions, member states	Adjudication and regional oversight	Uneven authority and implementation capacity
Domestic	Governments,	Incorporation of	Political, legal, and

Implementation	legislatures, national courts	international norms into domestic systems	cultural divergence
Climate Governance	States, multilateral institutions, civil society	Integration of human rights into climate action	Distributional inequality and weak accountability
Civil Society Participation	NGOs, advocacy networks, communities	Monitoring, representation, and accountability	Restricted civic space and unequal influence

The institutional context of migration governance is also complex and diverse. The states, regional organizations, international agencies and security and humanitarian authorities whose competences often do not overlap coordinate cross-border mobility. Migration could be seen as an economic imperative, a humanitarian problem, a security threat, or a right issue, which gives rise to different institutional reactions. In relation to admission, detention, border control, labour mobility and protection, they are responsible for the formulation of policies that are affected by these competing philosophies. They also demonstrate that politics of sovereignty, belonging and responsibility are determinant of global governance, not government that is only neutral administrative process (Pécoud 2021).

The importance of regional human rights systems is also not to be overlooked as they are a mechanism of translation of the general principles of international human rights into mechanisms of supervision and adjudication which are more context-sensitive at the regional level. They can be of great assistance and serve as a bridge between universal standards and implementation at national level because of their close interactions with national legal and political processes. But the powers, independence, accessibility and powers of enforcement of regional institutions differs. This is illustrated in the Arab human rights system, where while there are significant steps forward in the formal recognition of rights, there are also continuing weaknesses in the institutional capacity and implementation. While regional systems can provide reinforcement to global standards, they can only work if there is political will to accept external review, meaningful review procedures and political will (Sadri, 2019).

Cultural interpretations also influence institutional legitimacy, as do universal norms. International standards need to be accepted locally, in terms of law, values, and political practice, if they are to be implemented if the ratification of a treaty alone is not sufficient. The efforts to balance the principles of human rights with a culturally informed understanding is an example in Indonesia. These approaches imply that there should be room for dialogue that takes into account the context, yet, at the same time, there are minimum protections that should not be relativised or diluted. Governance institutions thus play a dual role: on the one hand, they implement legal obligations, on the other, they help to negotiate the universal principles and different normative settings (Pratiwi, 2020).

Climate governance is an additional way to extend the institutional influence of human rights. The environment is a facet of health, food, water, housing, livelihood, displacement and equality issues, and environmental decision-making is therefore linked to rights protection. One of the key principles of climate justice is that the people who suffer the least from global warming because they have emitted the least greenhouse gases are likely to be most vulnerable to its negative impacts and least able to adapt. Thus, a rights-based approach to the 1.5°C cap will involve institutions in bringing equity, participation, distributional justice and accountability into climate policy – not just emissions reduction as a technical matter (Robinson & Shine, 2018).

These examples demonstrate that a complex and interdependent institutional environment of global human rights governance exists, but in an uneven manner. International standards have a real impact only when regional mechanisms, national governments, the private sector, and civil society reinforce each other. Greater coordination, more explicit allocation of responsibility and more effective accountability processes are thus necessary if universal human rights standards are to become more than just a nicety and bring consistent protection across the borders, sectors and political context.

4. Implementation Gap: Structural, Political, and Legal Challenges

International human rights agreements and their application are among the main failings of global governance. States promote treaties, declarations, and monitoring processes, but the implementation of these commitments at the national level is sometimes weak. Implementation will be influenced by political will, institutional capacity, legal incorporation, administrative coordination and accountability mechanisms. International norms may not be observed when these elements are not strong. The norm–practice gap is not just about non-compliance, it is about structural differences in the conceptions of obligations, institutional organization, reactions to oversight, and the weighing of multiple political and economic interests among the states.

The effectiveness of international monitoring mechanisms is one of the major challenges. There are a variety of United Nations treaty bodies that deliver findings, recommendations and interpretive guidance, but there are significant differences in the impact of such bodies in different country contexts. Evaluating compliance is itself tricky due to the fact that the states could only partially, selectively or make recommendations that are not easy to measure. Studies into treaty-body “views” and treaty implementation have revealed that the findings can be skewed when the process of implementation is seen as a binary, either–or scenario, as opposed to a process that is

multidimensional and incremental. This issue exposes the necessity of more accurate measures to differentiate between formal acceptance and changes in laws, regulations, administrative initiatives, judicial decisions and real improvements in the protection of rights (Ullmann & von Staden, 2020).

The design of institutions also have an impact on their implementation as reflected in the experiences of the National Human Rights Institutions. While NHRIs are supposed to connect the international norms with the domestic practices, their independence, legal powers, and access to decision-making processes, as well as their resources and investigative capacity, vary significantly. Variation implies that institutions with the same formal designation can have very different capacities to influence the rights outcomes. Weaker institutions can have greater difficulties being autonomous, or have more limited means of enforcing accountability, while stronger institutions can monitor violations, receive complaints, advise governments and have means to enforce accountability. The assessment of these NHRI's should therefore be based on institutional quality and not be taken for granted that the mere presence of an NHRI is enough to protect effectively (Welch et al., 2021). Achievement of human rights protection requires addressing the implementation gap that can be caused by monitoring constraints, institutional differences, data gaps and political conflicts as shown in Figure 1.

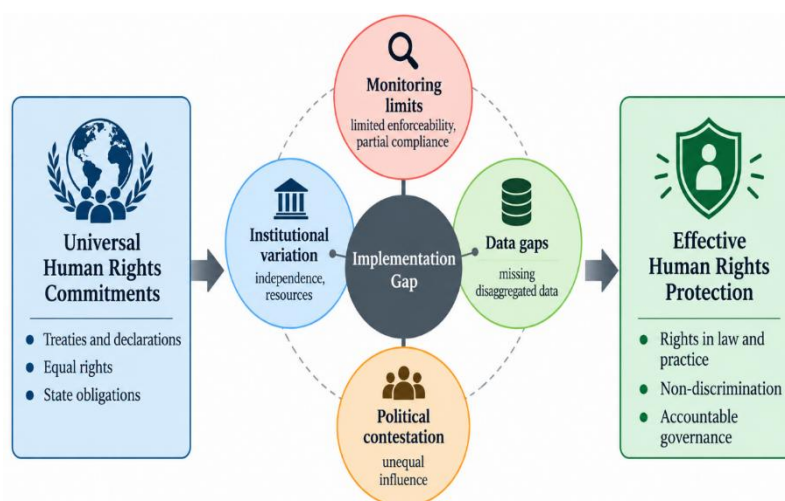


Figure 1. Structural and Institutional Barriers to Effective Human Rights Protection

Another barrier is data and measurement. Without accounting for the situation of marginalized groups, or by masking inequalities in national averages, the process of human rights implementation cannot be assessed. Rights-based monitoring of SDGs puts the emphasis on disaggregated, plural and participatory data that can help identify those who are not on track for development. There is great potential for a more extensive data system to reinforce accountability when it integrates official data with data from civil society and communities and other legitimate sources. These types of strategies are particularly relevant in making the “leave no one behind” principle into tangible commitments, rather than mere rhetoric (Feiring et al., 2017).

Political contestation also influences the implementation in non-formal state institutions. In the world of global governance, human rights norms are subject to interpretation and negotiation by governments, corporations, technical bodies and civil society actors of various influence. Internet governance is a case in point of how human rights can serve as a common but contested horizon of reference to shape conflicting claims. Engaging in civil society can help to make governance more accountable, by questioning the technical or commercial approach and adding the voice of rights-based concerns. But even if people participate, they may not have much influence, as power to make decisions may still be held by dominant institutional or economic groups (Ten Oever, 2019).

This is another example of structural inequality making universal implementation difficult, as is evident in climate justice. The impacts of climate change are not evenly spread, and the most vulnerable people often face the highest risks, while doing the least for the environmental problem. Addressing historical responsibility, disproportionate exposure, adaptive capacity, and participation in decision-making is, therefore, important for human rights responses to climate change. These dimensions question the approach of governance based on formally equal processes without recognising the inequality of social and economic conditions. Therefore, the implementation must be related to the concepts of universal rights and distributive justice and differentiated vulnerability (Schapper, 2018).

All of these challenges demonstrate that joint failures of the legal, institutional, political and informational factor produce implementation failure. There is need to have stronger treaty processes if the domestic processes are independent, if there are unequal outcomes that are visible through data, if there is meaningful civil society engagement and if there is governance response to structural inequality. The gap between the commitment and the delivery of the implementation is thus, to be closed, to change the nature of accountability from formal to

5. Universality in Context: Differentiated Implementation and Legal Contestation

The universal nature of human rights is based on the principle that basic rights are for everyone, regardless of their nationality, legal status, political and social system. But universality isn't limited to an institutional vacuum. Domestic constitutions, courts, administrative systems, migration laws and powers, corporate rules and regulations, and emergency powers are all mechanisms within which international standards are interpreted. Implementation will thus vary from jurisdiction to jurisdiction. The main governance issue is whether it is possible to have such diversity while respecting the minimum content of universal rights. Contextual adaptation can enhance the legitimacy in cases where it supports protection, but it weakens the universality aspect when it is used as an excuse to selectively abate parts of the account, overall accountability is low, or it is used politically.

This is a tension that is very apparent in the context of migration governance. The Global Compact for Safe, Orderly and Regular Migration established an important framework for global cooperation, and highlighted the rights of migrants throughout the migration journey. Its non-binding nature and the need for state cooperation, however, show that sovereignty still remains as the key to implementing the universal protections. States have significant discretion in both admission, detention and border control, access to labour and access to services, resulting in differential protection of migrants. The Compact thus demonstrates the normative scope of universal rights, as well as the institutional constraints which emerge when a rights-based approach to implementation is largely dependent on the national political decision (Guild et al., 2019). Table 2 demonstrates that there are important differences in the way universal human rights are implemented and held accountable at the heart of the five key governance areas.

Table 2. Contextual Variation in Universal Human Rights Implementation

Governance Domain	Normative Standard	Contextual Variation	Accountability Issue
Migration Governance	Equality and migrant protection	State discretion over borders and admission	Uneven protection
Universal Periodic Review	Universal state scrutiny	Differences in treaty commitments and reporting	Variable monitoring
Domestic Courts	Application of international norms	Different legal and constitutional systems	Uneven enforceability
Business and Human Rights	Corporate responsibility and remedy	Voluntary and binding regulatory approaches	Accountability gaps
Emergency Governance	Protection of fundamental rights	Temporary lawful restrictions during crises	Risk of excessive derogation

The Universal Periodic Review provides another notion of universality, bringing all the United Nations member states under the microscope on a regular basis. It is universal in extent, thus minimizing the sense of human rights monitoring being limited to certain areas or political systems. States' reporting and treaty obligations, nonetheless, affect the quality of their review. More stringent monitoring demands can be triggered by greater legal obligations, revealing that formal universal mechanisms can create differentiated expectations of accountability where the obligations undertaken are different. When the differentiation is based on legally based standards and not on geopolitical selectivity, it can help reinforce the universality (Hong, 2018).

Another forum in which the norms of the Universal Declaration are implemented in context is domestic courts. The interpretation of international obligations by United Nations treaty bodies also contribute, but the importance of the interpretations varies from one court to another. International standards have an impact on national adjudication, depending on the place they achieve in the system in terms of enforcement, persuasiveness or marginalisation, which is to say, through constitutional design, rules on incorporation in national treaties, judicial doctrine and precedent. Implementation is, hence, not simply a translation of international norms into domestic legislation, but a process of legal translation, where through institutions, the strength of rights protection can be enhanced or weakened (Kanetake, 2018).

A similar issue in the field of business and human rights governance is the question of who should be represented. In Business and Human Rights governance, the issue of who is represented is similar. TNCs are multinational and companies have different regulatory capacities in different jurisdictions, and international frameworks are trying to set shared standards of responsible conduct. The resulting landscape comprises of voluntary principles, due-diligence requirements, reporting duties and new binding measures. This range of regulatory effort is reflected in the concept of a "commitment curve" and indicates that there is not just one single model of global business regulation but rather forms of commitment in a graduated hierarchy. This flexibility can allow for participation, but can also result in normalizing weaker commitments where accountability is required and can be enforced (Kirkebo & Langford, 2018). Contextual flexibility is even more directly challenged when we are faced with a public emergency. The pandemic COVID-19, brought about restrictions on movement, assembly, privacy, education and other protected interests. In

any emergency, limited derogation is allowed within the limits of international human rights, but must meet the conditions of legality, necessity, proportionality, temporariness and non-discrimination. This pandemic proved that universal rights frameworks are able to meet the needs of the exceptional situation without losing their legal restraint. The risk lies in the duration of the emergency powers, in their lack of review and/or in their lack of relationship with the conditions that allowed the powers to be proclaimed (Lebret, 2020).

These examples, combined, highlight the fact that universality is more about common minimum protection than equal institutional structures. There is a need for contextual interpretation in migration, international review, domestic adjudication, corporate governance and emergency governance. The key issue is whether such interpretation is consistent with substantive rights, and maintains transparency of justification and meaningful accountability. Such a viable international human rights regime should thus be able to accommodate institutional diversity, yet should establish sharp boundaries around contextual arguments that undermine the fundamental rights and other central pillars of human rights, or that would shift flexibility into selective compliance in different governance contexts around the world.

6. Contemporary Pressures Reshaping Global Human Rights Governance

The world's current human rights governance is undergoing a transformation of today's pressures that go beyond traditional state-based institutions and legal frameworks. The challenges to rights protection have increased due to climate disruption, digital governance, inequities in national capacity, conflicting compliance, and persistent inequities in data. These pressures play out in several areas, and highlight the disconnect between the promise and practice of universal outcomes. Good governance is more than just setting norms; it is about creating institutions that can respond to new threats, recognise and understand the different vulnerabilities, and deliver tangible protection.

The impacts of climate change are a good example of this change: they affect several rights in one go. The combined impact of rising temperatures, extreme weather, food insecurity, water scarcity, displacement and loss of livelihoods can exacerbate inequalities experienced by communities and disproportionately impact communities that have minimal adaptive capacity. A climate justice viewpoint is that those with the smallest share in global emissions often suffer the greatest impacts. This poses a direct governance challenge: unequal historical responsibility, exposure and resource availability may not be accounted for in formally uniform climate policies, resulting in an injustice. The participation, distributive justice and protection of vulnerable groups have become more and more critical for the incorporation of climate action into human rights approaches (Schapper, 2018).

Digital governance poses a great challenge. Governments, companies, technical organisations and civil society organisations are increasingly influencing the decisions that shape internet infrastructure, privacy, access, freedom of expression, and platform governance. While principles of human rights could be used as a 'normative language', their meaning is not always consensual when security, commercial interests and technological efficiency clash against the freedom of the individual. A rights-based approach to strengthening accountability requires civil society to influence technical decision-making, which can be achieved through participation, but not necessarily in an equal manner. The experience of ICANN is a good case in point of the possibilities of contestation to institutionalize human rights issues, as well as of the longstanding power imbalance between the different stakeholders (Ten Oever, 2019).

Another difficulty is to gauge the effectiveness of international norms in inducing compliance. Treaty bodies of the United Nations (UN) play a role in interpretation, supervision and remedial guidance, but the reactions of states to their opinions are diverse. Compliance can be total or partial, and can be delayed, symbolic, or hard to measure. Focusing on implementation merely in terms of success or failure can mask differences between laws, action, response, recognition, and actual improvement of rights protection. To differentiate between procedural engagement and meaningful implementation (Ullmann & von Staden, 2020), more precise assessment is necessary if monitoring systems are to have this ability.

In addition to these challenges, there is variation in institutions at the domestic level. National Human Rights Institutions aim to link international norms to national accountability, and can vary in terms of the level of independence, scope of mandate, investigative powers, resources, and political access. The differences affect their ability to receive complaints, investigate abuses, provide advice to governments, and influence legislation, and their capacity to support vulnerable groups. The presence of an NHRI in itself, then, has limited meaning for protection if one does not take into account its institutional design and the level of its autonomy. Comparative evidence reveals that differences in institutional structure are key to the human rights differences between states (Welch et al., 2021).

Data governance is also critical since it's the rights that are not properly measured that can stay politically invisible. An average may mask the disparities affecting marginalized groups such as migrants, indigenous populations, women and minorities. The monitoring of SDGs thus needs evidence from plural, participatory, and disaggregated sources of evidence. Use of official statistics, in conjunction with good information produced by the community, civil society and independent bodies can uncover exclusion and enhance accountability. A pluralistic data ecosystem is crucial for operationalizing the pledge to leave no one behind, through identification of those who are left out, where gaps exist and by whom they can be addressed (Feiring et al, 2017).

These pressures reveal that current human rights governance is increasingly data- and institution-intensive, and

interrelated. The promise of universal standards does not necessarily result in a uniform protection. The idea of universal standards is not a guarantee of uniform protection due to climate vulnerability, digital power, non-compliance, institutional diversity, and informational exclusion. A robust governance structure needs to be both normatively strong, and institutionally independent with participatory dimensions, credible measurement and context-specific accountability. Whether global human rights governance will be effective in the future will rely on its ability to adapt to new risks, and on the universality, indivisibility and enforceability of basic rights in reality.

7. Strengthening Implementation, Accountability, and Legitimacy in Global Human Rights Governance

To enhance effective human rights governance, the proliferation of norms must be overcome with the development of systems of implementation that can lead to concrete compliance, timely review and accessible remedies. There are already treaties, monitoring mechanisms, institutions and voluntary standards in the international framework, but protection is not uniform, as it relies on political will, institutional capacity, and follow-up and the capacity to regulate the rapidly changing domains. Reform should thus focus on the quality of implementation and not the number of norms, while emphasising accountability, internal implementation, corporate responsibility and potential technological risks.

At the heart of this agenda are the Universal Periodic Review and the UN treaty bodies, which institutionalize the duties of monitoring and recommending and breathe life into the abstract. They are effective in creating a public assessment, a good reputation and a possibility for domestic reform. But simply being monitored does not ensure compliance. Recommendations for specific actions, the trustworthiness and availability of follow-up, civil society involvement, and government readiness to translate international promises into legal, administrative and policy action all play a role in the influence of these mechanisms. The findings from the comparative performance evidence show that international review can play a role in achieving compliance, yet there is a need for it to be supported by ongoing domestic mechanisms for implementation (Carraro, 2019). In Table 3, the authors outline specific areas that could benefit from reforms to make global governance of human rights more strong. In Table 3, the authors highlight specific areas which might benefit from reforms to make global governance of human rights stronger.

Table 3. Priority Reforms for Strengthening Global Human Rights Governance

Reform Area	Current Governance Limitation	Priority Response	Expected Governance Benefit
Universal Periodic Review	Uneven follow-up and implementation	Stronger monitoring and measurable follow-up	Improved state compliance
Treaty-Body System	Backlogs, resource constraints, weak domestic uptake	Better resourcing and stronger national linkages	More effective implementation
Temporal Accountability	Long review cycles and delayed responses	Interim benchmarks and continuous review	Timelier corrective action
Corporate Accountability	Procedural or voluntary due diligence	Rights-based due diligence linked to remedy	Stronger business responsibility
AI Governance	Opacity, bias, and diffuse responsibility	Transparency, oversight, and contestability	Greater protection in automated decision-making

The time frame of the human rights review also needs to be addressed. Accountability is typically designed in a reporting cycle, reporting session and periodic recommending framework but the moment of the processes and the size of the problems addressed depends on the timing. The Universal Periodic Review is just one illustration of how time is not just a product of the administrative process of monitoring, but of the process of making progress, taking responsibility and setting expectations for institutions. Lack of momentum can result from long review periods and a delay between the issuing of international recommendations and the opportunities for change at home. Good governance then needs more robust indicators of progress along the way, a strong follow-up and better ways to measure progress between review cycles (McNeilly, 2021).

The treaty-bodies also need to be strengthened. Treaty bodies interpret legal obligations, consider state reports, act on complaints (where mandated), and give authoritative guidance on content of rights. However, their potential is limited due to backlogs in reporting, resource constraints, variable state-level cooperation and engagement within the home country. They can be strengthened to have better processes, resourcing, and national court links, as well as connections to the national legislatures, human rights institutions, and civil society. Whether international findings will translate into domestic legal and administrative action is the key to treaty monitoring's future, if it isn't just limited to international reporting processes (Oette & Oberleitner, 2018).

Another vital aspect of reform is related to corporate accountability. Labour conditions, privacy, health, land, environmental security and community welfare can be impacted by transnational business activity in a number of jurisdictions. Human rights due diligence offers a pathway to identifying, preventing, mitigating and reporting on

adverse effects in advance, which is crucial to reducing or eradicating them before they are entrenched. However, meaningful due-diligence can only be a part of corporate governance, with the involvement of stakeholders, and be linked to the effectiveness of remedy. When stripped of the substance of the changes of business practice, it becomes a matter of disclosure and reputational management or of procedural obligations. (McCorquodale et al., 2017)

There's an additional level of urgency in technological governance. The use of artificial intelligence in policing, employment, administration of welfare, migration control, surveillance and finance, and provision of public services is growing. Existing human rights safeguards may be insufficient in the case of widespread deployment of automated systems, where models are opaque, and where there is a lack of accountability with respect to public and private actors. AI governance must thus focus on principles – and transparency, explainability, lack of discrimination, contestability, meaningful human oversight and clear accountability for harm. It is key to shift the regulatory frameworks from a reactive approach to becoming proactive and anticipating institutionalization of the technological practices (Liu, 2021).

These priorities suggest that legitimacy in global human rights governance is more about strengthening institutions to ensure that existing standards become effective than is about additional declarations. Increased follow-up, increased resources for monitoring bodies, integration in the home country, effective corporate due diligence and anticipation of new technologies will help to close the gap between universal promises and real protection. This is why a credible governance system needs to be both normatively consistent and institutionally responsive, to be held accountable, and to provide access to remedies in both public and private.

8. Conclusion

The legitimacy of global governance is still dependent on human rights, but not enjoying universal recognition has resulted in not getting universal protection. The review shows that the implementation is hindered by the interplay of legal fragmentation, political selectivity, institutional weaknesses, cultural contestation, limited enforcement and unequal access to accountability. Such structural challenges are further intensified by the migration across borders, the power of companies, vulnerability to climate change, digital governance, artificial intelligence and emergency rule which undermine the ability of existing institutions to consistently uphold rights. The problem is not a lack of norms, however, it is the lack of uniformity in translating the existing norms into law, policy, remedy and institutional practice. A stronger treaty follow up, more well-resourced monitoring mechanisms, more independent national institutions, greater civil-society engagement, better data systems, corporate due diligence with the aim of rights, and transparency and oversight of new technologies are essential to achieving the reforms needed. The principle of universality should be the rule to which other principles should remain faithful and the different ways of implementing it should be sufficiently flexible to account for the various legal and social contexts without diminishing the level of protection. In the end, the legitimacy of global human rights governance will rest on the extent to which there are measurable gains in protection, accountability, participation, and access to remedy in jurisdictions, institutions and affected communities in response to international commitments. The change is crucial if the ever-present norm–practice disconnect is to be addressed on a global scale.

References

1. Alston, P. (2017). The populist challenge to human rights. *Journal of Human Rights Practice*, 9(1), 1-15.
2. Colchester, M. (2021). Cultural relativism and indigenous rights: Rethinking some dilemmas in applied anthropology (part 1). *Anthropology Today*, 37(3), 16-19.
3. Costello, C., & Mann, I. (2020). Border justice: migration and accountability for human rights violations. *German Law Journal*, 21(3), 311-334.
4. Johansson Dahre, U. (2017). Searching for a middle ground: anthropologists and the debate on the universalism and the cultural relativism of human rights. *The International Journal of Human Rights*, 21(5), 611-628.
5. Arts, K. (2017). Inclusive sustainable development: a human rights perspective. *Current Opinion in Environmental Sustainability*, 24, 58-62.
6. Augenstein, D., Dawson, M., & Thielbörger, P. (2018). The UNGPs in the European Union: The open coordination of business and human rights?. *Business and Human Rights Journal*, 3(1), 1-22.
7. Baxi, U. (2017). Towards socially sustainable globalization: reflections on responsible contracting and the UN guiding principles on business and human rights. *Indian Journal of International Law*, 57(1), 163-177.
8. Bernaz, N. (2021). Conceptualizing Corporate Accountability in International Law: Models for a Business and Human Rights Treaty: N. Bernaz. *Human rights review*, 22(1), 45-64.
9. Bond, J. (2021). *Global intersectionality and contemporary human rights*. Oxford University Press.
10. Boyle, A. (2018). Climate change, the Paris Agreement and human rights. *International & Comparative Law Quarterly*, 67(4), 759-777.
11. de Mesquita, J. B., Thomas, R., Gauter, C., Havkwist, A., Hoddy, R., Larasati, A., ... & Smith, R. A. (2018). Monitoring the sustainable development goals through human rights accountability reviews. *Bulletin of the World Health Organization*, 96(9), 627.
12. Donahoe, E., & Metzger, M. M. (2019). Artificial intelligence and human rights. *Journal of Democracy*, 30(2),

- 115-126.
13. Etone, D. (2017). The effectiveness of South Africa's engagement with the universal periodic review (UPR): potential for ritualism?. *South African Journal on Human Rights*, 33(2), 258-285.
14. Fariss, C. J. (2018). The changing standard of accountability and the positive relationship between human rights treaty ratification and compliance. *British Journal of Political Science*, 48(1), 239-271.
15. Mayer, B. (2021). Climate change mitigation as an obligation under human rights treaties?. *American Journal of International Law*, 115(3), 409-451.
16. Nolan, J. (2017). Business and human rights: The challenge of putting principles into practice and regulating global supply chains. *Alternative Law Journal*, 42(1), 42-46.
17. Pécoud, A. (2021). Philosophies of migration governance in a globalizing world. *Globalizations*, 18(1), 103-119.
18. Pratiwi, C. S. (2020). Bridging the gap between cultural relativism and universality of human rights: Indonesia Attitudes. *JILS*, 5, 449.
19. Robinson, M., & Shine, T. (2018). Achieving a climate justice pathway to 1.5 C. *Nature climate change*, 8(7), 564-569.
20. Sadri, A. (2019). The Arab human rights system: achievements and challenges. *The International Journal of Human Rights*, 23(7), 1166-1182.
21. Schapper, A. (2018). Climate justice and human rights. *International Relations*, 32(3), 275-295.
22. Ten Oever, N. (2019). Productive contestation, civil society, and global governance: Human rights as a boundary object in ICANN. *Policy & Internet*, 11(1), 37-60.
23. Ullmann, A. J., & von Staden, A. (2020). Challenges and pitfalls in research on compliance with the 'views' of UN human rights treaty bodies: A reply to vera shikhelman. *European Journal of International Law*, 31(2), 693-708.
24. Welch, R. M., DeMeritt, J. H., & Conrad, C. R. (2021). Conceptualizing and measuring institutional variation in national human rights institutions (NHRIs). *Journal of Conflict Resolution*, 65(5), 1010-1033.
25. Feiring, B., Thornberry, F., & Hassler, A. (2017). Building a pluralistic ecosystem of data to leave no one behind: A human rights perspective on monitoring the Sustainable Development Goals. *Statistical Journal of the IAOS*, 33(4), 919-942.
26. Guild, E., Basaran, T., & Allinson, K. (2019). From Zero to Hero? An analysis of the human rights protections within the Global Compact for Safe, Orderly and Regular Migration (GCM). *International Migration*, 57(6), 43-59.
27. Hong, M. H. (2018). Legal commitments to United Nations human rights treaties and higher monitoring standards in the Universal Periodic Review. *Journal of Human Rights*, 17(5), 660-673.
28. Kanetake, M. (2018). UN human rights treaty monitoring bodies before domestic courts. *International & Comparative Law Quarterly*, 67(1), 201-232.
29. Kirkebo, T. L., & Langford, M. (2018). The commitment curve: Global regulation of business and human rights. *Business and Human Rights Journal*, 3(2), 157-185.
30. Lebre, A. (2020). COVID-19 pandemic and derogation to human rights. *Journal of Law and the Biosciences*, 7(1), Isaa015.
31. Liu, H. Y. (2021). AI challenges and the inadequacy of human rights protections. *Criminal Justice Ethics*, 40(1), 2-22.
32. Carraro, V. (2019). Promoting compliance with human rights: the performance of the United Nations' Universal Periodic Review and Treaty Bodies. *International Studies Quarterly*, 63(4), 1079-1093.
33. McNeilly, K. (2021). How time matters in the UN Human Rights Council's universal periodic review: Humans, objects, and time creation. *Leiden Journal of International Law*, 34(3), 607-627.
34. Oette, L., & Oberleitner, G. (2018). The UN human rights treaty bodies: impact and future. *International human rights institutions, tribunals, and courts*, 95-115.
35. McCorquodale, R., Lise, S. M. I. T., Neely, S., & Brooks, R. (2017). Human rights due diligence in law and practice: Good practices and challenges for business enterprises §. *Business and Human Rights Journal*, 2(2), 195-224.
36. Robinson, M. (2018). *Human rights in global health: Rights-based governance for a globalizing world*. Oxford University Press.
37. Meyer, W. H. (2019). *Human rights and global governance: power politics meets international justice*. University of Pennsylvania Press.
38. Msuya, N. H. (2019). Concept of culture relativism and women's rights in sub-Saharan Africa. *Journal of Asian and African Studies*, 54(8), 1145-1158.
39. Sarkin, J. (2021). The 2020 United Nations human rights treaty body review process: prioritising resources, independence and the domestic state reporting process over rationalising and streamlining treaty bodies. *The International Journal of Human Rights*, 25(8), 1301-1327.