Many observers agree through several lines of argument that intergovernmental organizations, such as the various bodies of the United Nations system, are subject to international human rights law and thus capable of violating human rights. If we accept that premise, then there is a need for some sort of mechanism to sound the alarm and take corrective action when these organizations violate or are suspected of violating human rights. The main point here is not that these agencies sometimes go wrong, but that there is no effective institutional mechanism in place to put them right.

There are many stories of wrongdoing by international governmental organizations, such as the World Bank, the International Monetary Fund (IMF) and the World Trade Organization. It is not only non-governmental organizations (NGOs) that sound the alarm, but also intergovernmental agencies sometimes take notice. For example, the UN Committee on Economic, Social and Cultural Rights has acknowledged that sanctions imposed by the Security Council may violate the International Covenant on Economic, Social and Cultural Rights.

While the impact of sanctions varies from one case to another, the Committee is aware that they almost always have a dramatic impact on the rights recognized in the Covenant. For example, they often cause significant disruption in the distribution of food, pharmaceuticals and sanitation supplies, jeopardize the quality of food and the availability of clean drinking water, jeopardize the quality of education systems, and undermine the right to work.

In addition, their unintended consequences can include reinforcement of the power of oppressive elites, the emergence of a black market and the generation of huge windfall profits for the privileged elites. These phenomena are essentially political in nature, they also have a major additional impact on the enjoyment of economic, social and cultural rights.

United Nations bodies, such as the United Nations Children’s Fund (UNICEF), the World Health Organization and the Office of the United Nations High Commissioner for Refugees, also get their share of criticism. UNICEF, for example, has been subject to severe criticism. The argument is not that the allegations of human rights violations are correct or incorrect, but that there is no institutional arrangement in place to address them.

Some intergovernmental agencies act as if they were wholly autonomous sovereign bodies, answerable to no one. They do have boards of directors to which they are answerable, but often these boards direct the very action that needs to be corrected and are not independent agents outside these bodies that would hold them accountable.

“Impunity can be understood as the absence or inadequacy of penalties and/or compensation for massive and grave violations of the human rights of individuals or groups of individuals.” To some degree, repeated demonstrations at World Bank and IMF meetings can be understood as protests against the impunity with which both institutions operate. Some observers question whether institutions can have moral responsibilities, or whether international human rights law can apply to businesses or intergovernmental agencies.

The IMF General Counsel argues that the International Covenant—a treaty among States that contains obligations addressed to them—does not apply to the Fund. Neither by its terms nor the terms of the IMF relationship agreement with the United Nations is it possible to conclude that the Covenant is applicable to the Fund. Moreover, the norms contained in the Covenant have not attained a status under general international law that would make them applicable to the IMF independently of the Covenant.

Most UN agencies have adopted a human rights approach, at least in their rhetoric, primarily because UN Secretary-General Kofi Annan, in the United Nations Development Assistance Framework launched in 1997, called upon them to do so. However, while the agencies praise human rights and assert that they are working steadfastly for their realization, they do not acknowledge that they themselves have human rights obligations. The obligations, it appears, are for others.

As Sigrun Skogly observes, “although willing to take part in a dialogue about human rights, the [World] Bank has never accepted any legal obligations in this sphere.” In 2002, the Bank was praised for having made a public commitment to do more to assist its client Governments in fulfilling their human rights obligations. However, this is different from acknowledging that it has human rights obligations and must be held accountable for meeting them in a systematic way. The agencies concede that they have
the minimum obligation of doing no harm, but do not seem to recognize any obligations for positive action.

Human rights are international in the sense of being universal, applying to all persons. However, international human rights law refers mainly to the obligations of States to people within their jurisdiction and speaks about some obligations that are "inter-national" in character, but are mainly "intra-national". International obligations arise mainly in cases of States' failure to assure the realization of human rights for the people within their jurisdictions. These obligations cannot be treated as if they end at national borders.

While most human rights activities centre on the realization of human rights within nations, careful attention to relationships among nations is also needed. For example, while equality with regard to human rights within nations is a reasonable intermediate target, the ultimate goal is equality across the globe. There is a mandate to do so in the Universal Declaration of Human Rights, which states in Article 28: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized."

Although there is no global government as such, there is, however, global governance that is undertaken by nations of the world through international activities, with the support of international agencies that act in their behalf. Human rights law can be understood as a project of articulating universally accepted standard of governance with regard to the protection and promotion of human dignity. To illustrate, the Universal Declaration of Human Rights and the International Covenant "recognize the right of everyone to an adequate standard of living for himself and his family ...". States and the Governments that represent them have the obligation to act to assure that everyone has an adequate standard of living, which should be understood to mean everyone, everywhere, and not only those individuals under the jurisdiction of a particular national government.

The guiding principle should be that the international community is subject to human rights obligations similar to those of States. Thus, if a particular action by a national government would be viewed as a human rights violation, then a similar action by, say, the World Bank should be viewed as a human rights violation as well. International governmental agencies are creations of nation States and act in their behalf and, therefore, they are subject to much the same obligations.

Critics regularly try to call the agencies to account informally, and some do it through legal analysis, but there is no regularized and legitimized institutional arrangement for this work. States regularly give accounts of their human rights performance under major treaties they have ratified by submitting periodic reports to United Nations human rights treaty bodies. The intergovernmental agencies do not ratify treaties directly, but the view taken is that as agents of the States that are parties to these agreements they are nevertheless subject to international human rights law.

Until some other institutional arrangements can be designed and implemented, intergovernmental agencies should be called upon to report regularly on their human rights performance to the United Nations Commission on Human Rights. Countries that are members of and help to fund intergovernmental agencies must also share in the responsibility for the actions of those agencies. Therefore, the treaty bodies should include the performance of these agencies in their periodic discussions with States Parties about human right activities.

The idea that the international community has specific human rights obligations is no more ambiguous than the concept that the State has such obligations. The "international community", like the "State", is a social construct. National governments represent States and act on their behalf. In much the same way, intergovernmental organizations represent and act on behalf of the collectivity of States—the international community. They, too, carry the full array of obligations under international human rights law and should also be held accountable for their performance.

Notes


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