

# The Influence of Human Rights on International Law



Norman Weiß • Jean-Marc Thouvenin  
Editors

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 Springer

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# Foreword

This book presents a discussion on the influence of human rights on international law. Why and how, if so, does human rights law influence other parts of international law or the basic structure of international law as a whole? Is there a streamlining effect resulting from human rights law that leads to the constitutionalization of international law?

The book is based on the proceedings of a research workshop held in Tbilisi (Georgia) in September 2012. French, Georgian, and German researchers met, had vivid discussions, and learned from each other on this very important subject.

The research workshop was funded by the German-Franco-University and supported by our home universities.

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# Introduction

## International Human Rights Law

Whereas classic international law was divided into the law of peace and the law of war, we witness that international law today covers more issues than these two or, to be more precise, that the law of peace is highly differentiated into very specific areas. This became possible as a growing number of issues were internationalized and became matters of interstate cooperation. Human rights law itself is one of these new areas whose breakthrough started in 1945: in December 1948, the Universal Declaration on Human Rights was proclaimed by the UN-General Assembly.

The first phase of the Cold War postponed that human rights treaties were concluded; this process started with the Convention of the Elimination of All Forms of Discrimination (CERD) in 1966, followed by the two International Covenants on Human Rights in 1965. Today, we have nine major human rights treaties amended by a set of protocols. Additionally, we have the so-called charter-based system of the protection of human rights within the UN. Based on the UDHR, the Commission on Human Rights (1945–2005) and the Human Rights Council (since 2006) developed a number of mechanisms and generated standards in order to protect human rights.

The aim of international human rights law is to protect individuals by preserving their freedoms and by creating opportunities. Human rights as legal rights create an obligation for states to respect, to protect, and to fulfill.

## Impact of Human Rights on International Law

In our workshop, we discussed the impact of human rights law on international law: do human rights have the power to change our understanding of international law? In the first line, we had to ask whether international human rights law modifies other fields of international law. Contributors focus on possible spill-

over effects of human rights on international economic law or on international criminal law.

In the second line, we discussed whether international human rights law has a streamlining effect on international law as a whole. This might be identified as a process of constitutionalization. In this reading, human rights can be understood as core principles of the international legal order and thus have an effect on the general law of treaties or on the settlement of disputes.

## **Results**

Although human rights law is a relatively young field of international law, its contents and core values today are of major importance for the interpretation of international law as a whole. As we witness a redefinition of sovereignty as a responsibility of states towards the people and a shift to greater relevance of the individual in international law in general, it is a logical consequence that human rights have an impact on other areas of international law.

This impact may not be the same in each case, and we will not reach full coherence in the near future. This would neither be necessary nor desirable, but streamlining human rights will make international law more apt to perform its major function of today: to serve the interests of human beings.

Norman Weiß  
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