

INTERNATIONAL LAW SAFEGUARDING HUMAN RIGHTS: RHETORIC, REALITY, OR REFORM?

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Abstract

International law is a system of law that consists of several sources of law that regulate the conduct of states in the global arena. While it addresses broad global concerns such as climate change, slavery, and discrimination, this article will focus on the current standards for states to uphold human rights and critically examines its actual effectiveness in doing so.

The paper explores how geopolitical dynamics significantly affect the enforcement of human rights under international law, revealing that their effectiveness is often contingent upon the political will and commitment of individual states. The discussion further broadens to consider the rapid rise of artificial intelligence (hereinafter referred to as 'AI') as a global phenomenon, highlighting its potential to pose new threats to human rights, particularly through the perpetuation of biases embedded in its human-designed systems.

In response to these challenges, the paper offers suggestions on how international law can strengthen its role in safeguarding human rights, including the need to account for algorithmic threats posed by AI technologies. Ultimately, it argues that while international law's promise to protect human rights may not yet be fully realised, it is not a false proposition; rather, it is a framework that requires collective commitment, political will, and adaptive mechanisms to be truly effective.

Literature review

Human rights have been on the topic for international law to take concern on, especially with many scholars emphasising on the normative strength of international law in setting common

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human rights standards. Hannum² observes that the **Universal Declaration of Human Rights** (hereinafter referred to as ‘**UDHR**’) has increasingly been treated as binding, since many of its provisions have been absorbed into customary international law. This creates a shared framework that encourages states to integrate international human rights norms into their domestic legal systems.

On the other hand, critics were made by scholars regarding its weaknesses, such as Colleen Good³ argues that cultural relativism allows states to resist universal standards when they conflict with local traditions, which lead to the statement of the state’s resistance to international norms barred by constitutional and political barriers in the study of Goldsmith⁴ and Bradley.⁵ Bekker⁶ stresses the institutional weakness of the UN Security Council, where the veto power of permanent members often blocks enforcement against human rights violations. McNeily⁷ has warned that artificial intelligence may perpetuate bias due to gaps in international legal regulation.

Thus, the approach to this study is a doctrinal research which aims to bridge the weaknesses of international law in protecting human rights with the proposed suggestion to empower its significant role to enforce human rights protections to ensure consistency, even in the event of an algorithmic threat.

1.0 Introduction

In the modern international order, the recognition of human rights has become one of the central pillars of global governance. The adoption of international instruments such as the **UDHR** and the twin **International Covenant of Civil and Political Rights of 1966** reflects a universal aspiration to safeguard the dignity and equality of all persons. However, despite this extensive legal framework, the protection of human rights remains fragile and inconsistent, often undermined by state sovereignty, selective enforcement, political interests, and legal gaps in Artificial Intelligence (hereinafter referred to as ‘AI’). This raises concerns

² Hurst Hannum, ‘The UDHR in National and International Law’ (1998) 3(2) *Health And Human Rights* 144-158.

³ Colleen Good, ‘Human Rights and Relativism’ (2010) 19 (1) *Macalester Journal of Philosophy* 27.

⁴ Jack L. Goldsmith and Curtis A. Bradley, ‘Treaties, Human Rights, and Conditional Consent’ (2001) *Public Law and Legal Theory Working Papers* <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=224298> accessed 21 August 2025.

⁵ n 3.

⁶ Pieter Bekker, ‘The Human Impact of Defiance of International Law’ (*Harvard Advanced Leadership Initiative*, 25 April 2025) <<https://www.sir.advancedleadership.harvard.edu/articles/human-impact-of-defiance-of-international-law/>> accessed 21 August 2025.

⁷ Melissa McNeily, ‘The Human Rights Risks of Artificial Intelligence (AI)’ (*New Tactics in Human Rights*, 24 July 2023) <https://www.newtactics.org/perspectives/human-rights-risks-artificial-intelligence-ai/> accessed 21 August 2025.

about whether international law truly operates as an effective safeguard for human rights or merely serves as a symbolic affirmation of ideals that are not realised in practice.

Although international law provides for numerous human rights guarantees through treaties, customary international law, and principles of *jus cogens*, the enforcement of these guarantees remains problematic. The lack of binding mechanisms, divergent state practices, and the influence of geopolitics have contributed to gaps in accountability for human rights violations. This article limits its discussion to the central question of whether international law genuinely safeguards human rights, or whether such a claim is a false proposition. The article will examine the strengths and weaknesses of international law in addressing human rights abuses, focusing on the tension between normative aspirations and practical enforcement.

2.0 International Law in Protecting Human Rights

Sources of international law consist of treaties between states, customary international law, general principles of law recognised by civilised nations, and judicial decisions made in the international courts, as provided in **Article 38** of the **Statute of the International Court of Justice** (hereinafter referred to as ‘**Statute of ICJ**’). The variety of sources of international law from written law to non-written law have formed a strong and comprehensive framework to safeguard the order and rights of the international community.

Zooming into the provisions of international laws on safeguarding human rights, the **UDHR** is the fundamental law which countries agreed on a comprehensive list of inalienable human rights that should be universally protected in 1948.⁸ The 30 rights and freedoms listed in the **UDHR** include the right to be free from torture,⁹ the right to freedom of expression,¹⁰ the right to education¹¹ and the right to seek asylum.¹² The civil and political rights, such as the rights to peaceful assembly,¹³ marry and form a family,¹⁴ are further solidified in the **International Covenant on Civil and Political Rights**. Similarly, the international law also codifies treating standards of economic, social and cultural rights in the **International**

⁸ ‘Universal Declaration of Human Rights’ (*Amnesty International*) <<https://www.amnesty.my/universal-declaration-of-human-rights/>> accessed 21 August 2025.

⁹ Article 5, UDHR.

¹⁰ Article 19, UDHR.

¹¹ Article 26, UDHR.

¹² Article 14, UDHR.

¹³ Article 21, International Covenant on Civil and Political Rights.

¹⁴ Article 23, International Covenant on Civil and Political Rights.

Covenant on Economic, Social and Cultural Rights as part of its human rights protection, for instance, the states parties are obliged to treat both male and female equally to the enjoyment of all economic, social and cultural rights under **Article 3**.

International humanitarian law also plays a significant role in protecting fundamental human rights in armed conflicts,¹⁵ such as the **Geneva Convention** to protect the people who do not take part in the armed conflict, and **Convention on the Prevention and Punishment of the Crime of Genocide** that used to prevent and punish genocide. These show the comprehensiveness of the international law to set the standards for the treatment of human rights.

Thus, non-compliance of the states will be held accountable to the International Court of Justice (hereinafter referred to as ICJ) which stipulates the importance of the judicial decisions to uphold the rule of law in human rights area. The recent landmark ruling by ICJ to hold Israel is violating its obligations under the **Genocide Convention** with its military assault on Gaza in 2024 has shown the firm position of the ICJ to protect the human rights, even in the context of armed forces.¹⁶ This also highlights the ICJ's function to provide authoritative interpretations for the international human rights treaties to ensure the effectiveness of the implementation of the law.¹⁷

Thus, the sources of international law have been the 'goalkeeper' to safeguard the human rights from the perspective of the normative customs that provide an universal framework, to the codification of human rights treatment especially in the **UDHR**, international humanitarian law that safeguard the civilian's human rights in armed conflicts, and the function of ICJ to uphold rule of law emphasizing the judicial protection to human rights. However, the extent on how effective this 'goalkeeping' will be discussed further.

¹⁵ OHCHR, *International Legal Protection of Human Rights in Armed Conflict*, New York and Geneva, United Nations, 2011, 119 pp.

¹⁶ 'Gaza: ICJ ruling offers hope for protection of civilians enduring apocalyptic conditions, say UN experts' (*United Nations*, 31 January 2024) <<https://www.ohchr.org/en/press-releases/2024/01/gaza-icj-ruling-offers-hope-protection-civilians-enduring-apocalyptic>> accessed 26 August 2025.

¹⁷ Babulal Dargad, 'The International Court of Justice and Its Role in Safeguarding Human Rights' (2017) 4(9) JETIR 903-910.

3.0 Analysing the Strengths and Weaknesses of International Law in Protecting Human Rights

The implementation of international law was not perfect, which brings both advantages and disadvantages to human rights protection, as addressed in the discussion below.

3.1 Strengths

3.1.1 Established Standards and Obligations for the States

The international law system, with the codification of human rights protections, has set the standard for states to respect, protect and fulfil human rights as their obligation. With the global principle of Responsibility to Protect (R2P) of all states adopted by the **United Nations World Summit Outcome Document** in 2005, the states bear with the responsibility to protect the populations crimes against humanity and ethnic cleansing, genocide, war crimes, significantly the whole international community is oblige to help the individual states to meet that responsibility, in contrary the community is empowered to be prepared for taking collective action against that individual states, which would bring negative impact to their diplomatic relations.¹⁸

Hence, this special acknowledgement between the states in the international community have prevented human rights violations and to uphold human rights in their domestic law according to the standard established by the international law, such as the **UDHR** frequently referred to as binding as many provisions of itself had been incorporated into customary international law,¹⁹ guided and inspired the states to develop the domestic human rights practices and responsibilities subsequently, including the establishment of the national constitutions that contain fundamental human rights of not fewer than 90 states.²⁰

3.1.2 Legitimizes claims of human rights emphasizing the position of the fundamental rights

International laws legitimize claims of human rights that enhance the advocacy of human rights. The standards set in international human rights treaties adopted by governments confer

¹⁸ 'What is R2P' (*Global Centre For The Responsibility To Protect*) <[¹⁹ Hurst Hannum, 'The UDHR in National and International Law' \(1998\) 3\(2\) *Health And Human Rights* 144–158.](https://www.globalr2p.org/what-is-r2p/#:~:text=Every%20state%20has%20the%20Responsibility,against%20humanity%20and%20ethnic%20cleansing,&text=The%20wider%20international%20community%20has,states%20in%20meeting%20th at%20responsibility.> accessed 21 August 2025.</p>
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²⁰ 'Final Act of the International Conference on Human Rights' (International Conference on Human Rights, Tehran, December 1968).

legitimacy on those claims which are asserted against governments,²¹ fortifies the human rights position in these states by providing authoritative support.

For instance, Malaysia has recently made the significant reform to protect the human rights to citizenship²² with granting the automatic citizenship to the child who born overseas whose mother is a Malaysian was greatly motivated by the years-awaited advocacy by the non-governmental organisations to call the Malaysian government to align its citizenship law with the international law human rights standards, specifically the **UDHR** and the **Convention on the Rights of the Child** that provide rights to citizenship.²³

The ICJ also plays a significant role to hold the states liable for violation of human rights such as directing Myanmar to prevent all genocidal acts against Rohingya Muslims is crucial for protecting the remaining Rohingya in Rakhine State.²⁴ The establishment of the Human Rights Council by the General Assembly. The Council members are to "uphold the highest standards in the promotion and protection of human rights,"²⁵ and every country is subject to universal periodic review of its human rights obligations and commitments which ensure the effectiveness of the ratification of the international law treaties and acts as an external authority to push for reform when the local voices would be silenced when they are against the government in certain states.²⁶

3.2 Weaknesses

3.2.1 Implementation of the Law in relation to the Sovereignty of the States

No law could be enforced without the ratification of the state whilst the sovereignty of the states is superior to the international law, even a treaty signed by the executive cannot change the domestic law of the state.²⁷ Although the **UDHR** has been ratified universally as a customary law, it has been a text of the hortatory declaration without being a legally-binding

²¹ Douglass Cassel, 'Does International Human Rights Law Make a Difference?' (2001) 2(1) Chicago Journal of International Law 127.

²² Article 15, UDHR.

²³ Jamie Chai Yun Liew, 'Homegrown Statelessness in Malaysia and the Promise of the Principle of Genuine and Effective Links' (2019) Statelessness & Citizenship Review 1(1).

²⁴ Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar: 11 States intervening) [2025] ICJ.

²⁵ 'General Assembly Establishes New Human Rights Council By Vote Of 170 In Favour To 4 Against, With 3 Abstentions' (United Nations, 15 March 2006) <<https://press.un.org/en/2006/ga10449.doc.htm>> accessed 27 August 2025.

²⁶ Such as A/HRC/29/25/Add.1, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, on his mission to Oman (8–13 September 2014).

²⁷ *R v Chief Immigration Officer, Heathrow Airport ex p Salamat Bibi* (1976) 3 All ER 843.

treaty.²⁸ However, such treaties, when it is more than a 'declaration' but come to the prospect of execution and policymaking, face the difficulty of implementing the law, as it highly depends on each state's willingness to ratify and take action.

The argument on human rights is specific and relative based on culture and the environment in question, but not a generalised value that could be applied over all states. Some states may indeed resist the application of customary international law, especially when it conflicts with their own cultural, religious, or legal traditions.²⁹ For instance, human rights treaty provisions occasionally are in contrary with either constitutionally guaranteed right or well-settled and democratically accepted practices in the state, such as capital punishment for heinous crimes in United States (United States did not follow the trend of its Western allies toward abolition of capital punishment)³⁰ which made the state find it constitutionally or politically difficult to consent to these treaty norms.³¹

However, the failure to implement due to the conflict with the state's culture is not absolute itself, the traditional values are often deployed as an excuse to undermine human rights.³² Some custom practices was a product of the era of that is in lack of the awareness for human rights while not being necessary anymore to today's society, such as child marriages, child labour, and women's societal status. Nevertheless, the difficulty arisen when such adaptation and integration of the international standards of protecting human rights must not compromise the cultural integrity of the peoples,³³ which become another obstacle to the state's ratification and hence ineffective implementation of the laws.

3.2.2 Lack of consistency by judicial treatment

The judicial treatment of customary international law reflects a lack of consistency. On one hand, certain decisions demonstrate a strict dualist stance, where judges have declined to give effect to well-established customary international law in the absence of statutory incorporation. A clear example is *MBf Capital Bhd & Anor v Dato' Param*

²⁸ Jacob Dolinger, 'The Failure of the Universal Declaration of Human Rights' (2016) 47 University of Miami Inter-American Law Review 164 <<http://repository.law.miami.edu/umialr/vol47/iss2/4>> accessed 21 August 2025.

²⁹ Colleen Good, 'Human Rights and Relativism' (2010) 19 (1) Macalester Journal of Philosophy 27.

³⁰ Eighth Amendment of U.S. Constitution.

³¹ Jack L. Goldsmith and Curtis A. Bradley, 'Treaties, Human Rights, and Conditional Consent' (2001) Public Law and Legal Theory Working Papers <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=224298> accessed 21 August 2025.

³² Graeme Rid, 'The Trouble with Tradition' (*Human Rights Watch*, 11 January 2013) <<https://www.hrw.org/news/2013/01/11/trouble-tradition>> accessed 21 August 2025.

³³ Bonny Ibhawoh, 'Between Culture and Constitution: Evaluating the Cultural Legitimacy of Human Rights in the African State' (2000) *Human Rights Quarterly* 839.

Cumaraswamy,³⁴ where the Court of Appeal refused to recognise the functional immunity of a UN Special Rapporteur despite Malaysia being a party to the **Convention on the Privileges and Immunities of the United Nations 1946**. By treating the interview as a personal act rather than an official function, the court disregarded the UN's assertion of immunity and later stood in contradiction to the ICJ's advisory opinion affirming that such immunity must be upheld by member states.

On the other hand, there are cases in which courts have engaged with customary international law, but only by channeling it through the framework of English common law.³⁵ For example, in *Noorfadilla binti Ahmad Saikin v Chayed bin Basirun*,³⁶ where the **Convention on the Elimination of All Forms of Discrimination against Women** (CEDAW) was invoked, but the judgment ultimately relied on constitutional provisions rather than granting direct effect to the treaty. Similarly, in the United Kingdom (hereinafter referred to as 'UK'), the dualist system means that even treaties signed by the executive, such as the **European Convention on Human Rights**, required express legislative incorporation via the **Human Rights Act 1998** before they could be enforced domestically. These examples illustrate how the absence of automatic incorporation results in selective engagement with international law and often leave human rights protections vulnerable to political will or cultural objections.

3.2.3 Trade-offs on human rights in the name of politics

The current international law system shows a lack of a central executive body to execute the law while playing the role to balance the political will of each states,³⁷ the respect for existing rules is eagerly needed to empower the international law to fulfil its duties to maintain the order of the international community.

The relationship between law and politics is inter-connected whereby law is a system of rules about force, but it cannot fully realize such force by itself. The law needs politics and political power and in a broader sense moral and customs, which agree with the law as a

³⁴ [1997] 3 MLJ 300.

³⁵ Ghafur Hamid @ Khin Maung Sein A, 'Judicial Application of International Law in Malaysia, an Analysis' (Malaysian Bar, 28 March 2007) <https://www.malaysianbar.org.my/article/news/legal-and-general-news/legal-news/judicial-application-of-international-law-in-malaysia-an-analysis> accessed 12 August 2025.

³⁶ [2012] 1 MLJ 832.

³⁷ Nico Krisch, 'International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order' EJIL 2005 16(3).

whole, to enable its effectiveness through its institutions specialized also for the implementation of physical force.³⁸

It is a well-known fact that in international relations politics have a much stronger impact on international law because all that legal and political actors at the international level strive for more autonomy of international law,³⁹ resulting from the establishment of the five permanent members who could use veto power to stop the United Nations Security Council (hereinafter referred to as ‘UNSC’) to take forceful actions for the violations of human rights.⁴⁰ UNSC despite being the most authoritative body in the international community,⁴¹ the 10 elected representatives of state have less bargaining power to the execution of the system compared to the 5 permanent member states who substantially dominate the UNSC.⁴²

For instance, the United States of America (hereinafter referred to as ‘US’) declined to pay any reparations to Nicaragua for its unlawful aid to the contra rebels and mining⁴³ by withdrawing itself from recognising the Court’s jurisdiction.⁴⁴ Yet, the US did not get banned from the international community or any punitive action taken from the law, instead the US raised a veto to block the enforcement of the judgement,⁴⁵ which critically illustrated the limited authority of the international law and testified the concerns that the geopolitical factors encroached the framework.⁴⁶ Thus, the effectiveness of the international law highly relies on the question of attitudes and leadership of the state, and by the citizens to hold the political leaders in compliance with the international standards on human rights treatment.⁴⁷ The human rights protection scarification for the politics does not only happen for once, but it has also been observed in the war between Israel and Palestine,⁴⁸ the missing persons in

³⁸ Dr Miro Cerar, ‘The Relationship Between Law and Politics’ (2009) 15(1) Annual Survey of International & Comparative Law 10.

³⁹ *Ibid.*

⁴⁰ Pieter Bekker, ‘The Human Impact of Defiance of International Law’ (*Harvard Advanced Leadership Initiative*, 25 April 2025) <<https://www.sir.advancedleadership.harvard.edu/articles/human-impact-of-defiance-of-international-law>> accessed 21 August 2025.

⁴¹ Edward C. Luck, *UN Security Council: Practice and Promise* (1st edn, Routledge 2006) 208.

⁴² Vahid Nick Pay and Przemysław Postolski, ‘Power and Diplomacy in the United Security Council: The Influence of Elected Members’ (2022) 57(2) *The International Spectator* 1-17.

⁴³ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)* [1986] ICJ Rep 14

⁴⁴ Marin Cleaver and Mark Tran, ‘US dismissed World Court ruling on contras’ (*The Guardian*, 28 June 1986) <<https://www.theguardian.com/world/1986/jun/28/usa.marktran>> accessed 10 March 2025.

⁴⁵ Michael J. Berlin, ‘U.S. Vetoes Nicaraguan Resolution On Compliance With Court Decision’ (*The Washington Post*, 31 July 1986) <<https://www.washingtonpost.com/archive/politics/1986/08/01/us-vetoes-nicaraguan-resolution-on-compliance-with-court-decision/ecdf20d6-cf3a-4761-ba23-5c49a9fa379a/>> accessed 9 March 2025.

⁴⁶ Eric A. Posner, ‘The Decline of the International Court of Justice’ [2004] U Chicago Law & Economics, Olin Working Paper No. 233; U of Chicago, Public Law Working Paper No. 81 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=629341> accessed 13 March 2025.

⁴⁷ n 36.

⁴⁸ ICJ found Israel violated international law of its racial segregation and apartheid against the Palestinians, however, Israel did not stop its fire immediately upon the ICJ’s ruling. *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* [2024] ICJ 186.

Xinjiang Uyghur Autonomous Region of the People's Republic of China,⁴⁹ and war crimes in Darfur.⁵⁰

In all, if the failure to balance between the politics and the international law by lacking a central executive body, the demand for greater legal autonomy would remain the central of the conflict leading the thought of all international actors.⁵¹

3.2.4 Perpetuation of Bias in Algorithmic Threats

The threats to human rights in international law have increased with the wider application of AI in employment, violent conflicts, childcare benefits and more, which have resulted in the perpetuation of bias in algorithmic threats and consequently affected the human rights protections. Generative artificial intelligence is an AI that can create original content and relies on deep learning models and algorithms in response to the inputs and prompts, which simulates humans' thinking and decision-making processes.⁵²

AI is a model with unlimited possibilities which would ease the workload of enhancing human rights protections in states. The likelihood of violent conflict or political instability, which are the two major contributors to human rights violations, have now been analysed by AI's predictive modelling that largely equipped the international bodies and governments to strategize the negotiations and protections to vulnerable communities.⁵³ The large language models (LLMs) used by AI has enhanced accessibility to information which is an integral part of freedom of expression by allowing people to access to wide range of

⁴⁹ UN Human Rights Council (UNHRC) member states today voted against adopting a decision to discuss the human rights situation in Xinjiang (17 votes for, 19 votes against, 11 abstentions). The debate would have taken place at the UNHRC's next regular session in March 2023.

'China: Xinjiang vote failure betrays core mission of UN Human Rights Council' (*Amnesty International*, 6 October 2022) <<https://www.amnesty.org/en/latest/news/2022/10/china-xinjiang-vote-failure-betrays-core-mission-of-un-human-rights-council/>> accessed 29 August 2025.

⁵⁰ The UNSC agrees to terminate UN mission in Sudan to bring the devastating war conflict which also caused the sexual violence to woman and child to an end at the insistence of the Sudanese government. 'Security Council agrees to terminate UN mission in Sudan' (*United Nations*, 1 December 2023) <<https://news.un.org/en/story/2023/12/1144257>> accessed 29 August 2025 ; Jana Steinbach-Hunt, Katharine Da Costa, 'My family face constant threat of rape in Sudan War' (*BBC*, 26 August 2025) accessed 29 August 2025.

⁵¹ Dr Miro Cerar, 'The Relationship Between Law and Politics' (2009) 15(1) *Annual Survey of International & Comparative Law* 10.

⁵² Cole Stryker and Mark Scapicchio, 'What is generative AI?' (*IBM* 22 March 2024) <<https://www.ibm.com/think/topics/generative-ai>> accessed 21 August 2025.

⁵³ Sam Bowman, 'The role of artificial intelligence in predicting human rights violations' (*Open Global Rights*, 14 November 2024) <<https://www.openglobalrights.org/the-role-of-ai-in-predicting-human-rights-violations/>> accessed 25 August 2025.

information with conversational and interactive experience by LLMs and provide resources for learning and understanding human rights.⁵⁴

Thus, the database is largely contributed by human inputs, which are often inherently biased due to numerous factors but is typically categorized into 3 main categories of data bias, development bias, and interaction bias.⁵⁵ Due to the legal gap in ensuring ethical standards of the use of AI across nations in international law, especially the significance of diversifying the training data.⁵⁶ When AI models are trained on biased data, AI models can inherit and perpetuate the bias when they are trained on biased data which would become threats to human rights empowerment.⁵⁷

The influence of AI on human rights has caused deprivation of the rights and misallocation of the societal resources that is detrimental to the realization of rights when AI is a crucial part of monitoring the reports or analysis to suggest reforms.⁵⁸ For now, the self-learning algorithm created by the government does not require any audit for human rights or potential biases which caused false accusations to the applicant of childcare benefits, subsequently tens of thousands of families were pushed to poverty because of exorbitant debts to the tax agency in the Netherlands.⁵⁹ The biased data sets in AI has also caused unemployment of the minorities instead of providing diversified working opportunities due to the lack of records of successfully recruited candidates from the minority groups such as persons with disabilities.⁶⁰ This affects the effectiveness of international laws in handling human rights issues was inadequate and outdated when it overlooked the deprivation of human rights by data and machine learning created by humans.⁶¹

⁵⁴ Sarah Shirazyan and Miranda Sissons, 'AI's Potential to Advance Human Rights? Striking the Right Balance' (*Just Security*, 2 August 2024) <<https://www.justsecurity.org/98097/ais-potential-to-advance-human-rights/>> accessed 25 August 2025.

⁵⁵ Matthew G. Hanna, Liron Pantanowitz, Brian Jackson, Octavia Palmer, Shyam Visweswaran, Joshua Pantanowitz, Mustafa Deebajah, Hooman H. Rashidi, 'Ethical and Bias Considerations in Artificial Intelligence/Machine Learning' (2025) 38(3) *Modern Pathology*.

⁵⁶ Melissa McNeilly, 'The Human Rights Risks of Artificial Intelligence (AI)' (*New Tactics in Human Rights*, 24 July 2023) <<https://www.newtactics.org/perspectives/human-rights-risks-artificial-intelligence-ai/>> accessed 21 August 2025.

⁵⁷ G.F. Cooper, C.F. Aliferis, 'An Evaluation of Machine-Learning Methods for Predicting Pneumonia Mortality' (1997) 9(2) *Artif Intell Med*.

⁵⁸ 'UN calls for moratorium on AI that threatens human rights' (*Al Jazeera*, 15 September 2021) <<https://www.aljazeera.com/economy/2021/9/15/warning-of-risk-un-rights-chief-urges-ai-oversight-regulation>> accessed 21 August 2025.

⁵⁹ Melissa Heikkilä, 'AI: Decoded: A Dutch algorithm scandal serves a warning to Europe - The AI Act won't save us' (*Politico*, 30 March 2022) <<https://www.politico.eu/newsletter/ai-decoded/a-dutch-algorithm-scandal-serves-a-warning-to-europe-the-ai-act-wont-save-us-2/>> accessed 20 August 2025.

⁶⁰ Jerneja Turin, 'Artificial intelligence and its impact on the human rights of persons with disabilities' (*European Network of National Human Rights Institutions*, 3 December 2023) <<https://ennhri.org/news-and-blog/artificial-intelligence-and-its-impact-on-the-human-rights-of-persons-with-disabilities/>> accessed 25 August 2025.

⁶¹ Sue Anne Teo, 'Artificial intelligence and its 'slow violence' to human rights' (2025) *AI and Ethics* <<https://link.springer.com/article/10.1007/s43681-024-00547-x>> accessed 21 August 2025.

The loophole in the current international law must be addressed to prevent the misuse of AI that is inherently biased and becoming an institutional bias that would be a threat to our human rights internationally and locally. Although AI has been functional to enhance human rights protection in technology-wise and more efficacy in handling data sets, the threat of bias in AI models is an obstacle for the human rights protection to be fully realised especially in generating relevant policy, grant of subsidies, or laws, that could affect the legitimacy of human rights claims when AI was being trusted and not being audited for its ethics.

4.0 Suggestions

In terms of the weakness regarding the lack of consistency, a practical reform lies in compelling courts to take judicial notice of customary international law (hereinafter referred to as 'CIL'), thereby recognising established norms as binding law without compelling states to ratify international treaties. This approach respects sovereignty while ensuring consistency in the application of international law. The Supreme Court of Canada in *Nevsun Resources Ltd v Araya*⁶² affirmed that CIL norms should be treated as law rather than facts, and may therefore be judicially noticed without the need for formal proof. Similarly, the UK Court of Appeal in *Trendtex Trading Corp v Central Bank of Nigeria*⁶³ held that restrictive sovereign immunity, a CIL principle, had become part of English common law despite the absence of statutory incorporation. Such precedents demonstrate that domestic courts can integrate CIL through judicial recognition and evolving common law, rather than legislative compulsion. Moreover, comparative scholarship highlights that courts frequently rely on authoritative doctrine and precedent to identify and apply CIL, thereby fostering a coherent judicial approach to international norms without coercing states into unwanted obligations.

To address the weakness regarding the lack of a central executive body, meaningful reforms must be considered. A central enforcement body within the international legal system, independent of political influence, with a mandate to oversee and ensure compliance with binding international obligations. Such a body would remedy structural deficiencies in the current system, where the enforcement of ICJ judgement is left to the discretion of the Security Council under **Article 94** of the **the United Nations Charter**, and where the decisive action is often paralysed by the veto power of the permanent members.

⁶² [2020] SCC 5.

⁶³ [1977] 1 QB 529.

At the same time, incremental reforms within the existing framework could enhance legitimacy and effectiveness. First, the veto power of the UNSC's permanent members should be curtailed, particularly in cases involving genocide, crimes against humanity, and other mass atrocity crimes.⁶⁴ Scholarly commentary and policy think tanks alike emphasise the life-threatening consequences of veto misuse, citing civilian losses in conflicts such as Syria, Yemen, and Ukraine.⁶⁵ Secondly, the role of the ICJ could be enhanced by mechanisms that strengthen the enforceability of its judgments, such as automatic referral procedures or General Assembly oversight where the UNSC fails to act.⁶⁶ Thirdly, the General Assembly could be empowered to act collectively under the Uniting for Peace Resolution when the Security Council is paralysed, ensuring that enforcement mechanisms are not entirely dependent on the P5.⁶⁷ Finally, greater reliance on regional organisations under **Chapter VIII** of the **UN Charter** would enable decentralised enforcement, while still maintaining coherence with the international legal framework.⁶⁸

Collectively, these reforms would help rebalance the relationship between politics and law in the international order. By constraining political obstruction and enhancing judicial authority, the autonomy and credibility of international law can be gradually strengthened, ensuring that law, rather than politics, serves as the primary framework for governing relations among states.

To address the growing threats that AI poses to human rights through the perpetuation of algorithmic bias, a comprehensive legal framework is necessary. The recent adoption of the **Council of Europe's Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law** provide an important model for binding obligations on states to ensure transparency, oversight, accountability, and non-discrimination across the

⁶⁴ Blake Elwood, 'Vetoing the Veto: The UN Security Council Needs Reform but It Is Unlikely to Ever See It' (Fordham International Law Journal Online, 21 January 2023) <<https://www.fordhamilj.org/iljonline/vetoing-the-veto-the-un-security-council-needs-reform-but-it-is-unlikely-to-ever-see-it>> accessed 12 August 2025.

⁶⁵ Vesselin Popovski, 'Revising the United Nations Charter: Security Council Reform' (Stimson Center, 12 April 2024) <<https://www.stimson.org/2024/revising-the-united-nations-charter/>> accessed 16 August 2025.

⁶⁶ *Ibid.*

⁶⁷ Stewart Patrick and others, 'UN Security Council Reform: What the World Thinks' (Carnegie Endowment for International Peace, 28 June 2023) <<https://carnegieendowment.org/2023/06/28/un-security-council-reform-what-world-thinks-pub-90032>> accessed 13 August 2025.; United Nations General Assembly Resolution 377 (V) 'Uniting for Peace' (3 November 1950).

⁶⁸ UN Charter, Chapter VIII; see also Oona A Hathaway and Stewart Patrick, 'Can the UN Security Council Still Help Keep the Peace?' (Carnegie Endowment for International Peace, 2 July 2024) <<https://carnegieendowment.org/posts/2024/07/can-un-security-council-still-help-keep-the-peace/>> accessed 11 August 2025.

AI lifecycle.⁶⁹ Human Rights Impact Assessments (HRIAs) for high-risk AI deployments, using structured frameworks such as the HH4AI methodology, which operationalises the **EU AI Act**'s risk-based approach.⁷⁰

The United Nations Human Rights Council could harmonise fragmented regulatory regimes, monitor compliance, and provide redress for affected individuals. Complementing these reforms, domestic legal systems must codify human oversight requirements, as reflected in **Article 14** of the **EU AI Act**, ensuring that algorithmic decisions remain subject to meaningful human intervention.⁷¹ right to explain and empower civil society organisations to pursue remedies through public interest litigation, thereby strengthening transparency, accountability, and equitable protection in the face of AI-driven governance.

5.0 Conclusion

The claim that international law effectively safeguards human rights is, at best, only partially true. While the international legal framework aspires to uphold universal principles of dignity, equality, and justice, its practical operation is undermined by doctrinal inconsistencies, institutional weaknesses, and emerging technological challenges. The judiciary's inconsistent approach towards customary international law demonstrates how domestic legal systems can limit the reach of international norms. At the global level, the political dominance of the UN Security Council, especially through the veto power of its permanent members, exposes the vulnerability of international law to political manipulation. More recently, the rapid rise of Artificial Intelligence adds another layer of complexity, with algorithmic bias threatening to undermine the very rights that international law seeks to protect.

Yet, these shortcomings do not render international law irrelevant. Rather, they emphasise the urgent need for reform. Domestic courts must play a more proactive role in harmonising national law with universally accepted norms. At the institutional level, limiting the misuse of veto power and enhancing the authority of judicial bodies could restore balance between politics and law. Likewise, the regulation of AI through binding international

⁶⁹ Council of Europe, *Framework Convention on Artificial Intelligence, Human Rights, Democracy and the Rule of Law* (adopted 17 May 2024; opened for signature 5 September 2024) CETS No 225 <<http://rm.coe.int/1680afae3c>> accessed 14 August 2025.

⁷⁰ Paolo Ceravolo and others, 'HH4AI: A Methodological Framework for AI Human Rights Impact Assessment under the EU AI Act' (2025) <https://arxiv.org/abs/2503.18994> accessed 14 August 2025.

⁷¹ Regulation (EU) 2024/1689 (Artificial Intelligence Act), art 14 ('Human Oversight') <<https://artificialintelligenceact.eu/article/14/>> accessed 13 August 2025.

standards and robust oversight mechanisms is essential to ensure that technological progress strengthens rather than erodes human rights protections.

Ultimately, international law's capacity to safeguard human rights depends not only on its normative ideals but also on the willingness of states and institutions to implement consistent, principled, and forward-looking reforms. Without such efforts, the proposition that international law protects human rights risks remaining more rhetorical than real.