IRSTI 10.87.47

Mukhatayeva G.[1], Buzurtanova M.[2]

[1]Senior Research Fellow of the Kazakhstan Institute for Strategic Studies Representative Office in Almaty, Master of Political Science, Kazakhstan, Almaty, e-mail: gmukhataeva@inbox.ru
[2]PhD Doctorate Student, Al-Farabi KazNU, Department Philosophy and Political Science, Kazakhstan, Almaty, e-mail: marem_buzurtanova@hotmail.com

ON EFFECTIVENESS OF «SOFT» LAW THE CASE OF UN TREATY BODIES INSTRUMENTS

The article discusses the capacities of international law to provide for «rule of law» internationally given the lack of comprehensive enforcement mechanisms and critically assess the concept and practices of «soft» law in this context.

The author starts by surveying the probable explanations why states observe international legal norm even without a proper enforcement that would include the interest of the powerful, convenience, desire for better international socialization. The article then proceeds to discuss whether these arguments apply to «soft» law«.

Further, the author deals with the question of how international human rights law is similar to and/or different from other International law and examines the case of the «Views» and «General Comments» of the UN human rights treaty bodies to find out whether it is an effective mechanism to protect human rights and whether they make (if at all) states to adhere to their human rights commitments both domestically and internationally.

Key words: international law, soft law, obedience without enforcement, human rights law, UN treaty bodies, legal scholarship, «Views» and «Comments» of UN treaty bodies, non-binding international norms, non-binding instruments.

Мухатаева Г.[1], Бузуртанова М.[2]

[1]Қазақстан стратегиялық зерттеулер институтының Алматы қаласындағы өкілдігінің аға ғылыми қызметкері, саясаттану магистрі, Қазақстан, Алматы қ., e-mail: gmukhataeva@inbox.ru
[2]PhD докторанты, әл-Фараби атындағы Қазақ ұлттық университеті, философия және саясаттану факультеті, Қазақстан, Алматы қ., e-mail: marem_buzurtanova@hotmail.com

«Жұмсақ құқық» тиімділігі мәселелері: БҰҰ келісім-шарттық органдарының құралдары мысалында

Мақалада халықаралық құқықтың өз «басымдығын» халықаралық деңгейде қамсыздандыра алу мүмкіндігі мәселесі «жұмсақ» құқықтың атқарушылық механизмдердің жетіспеушілігі және оның идеясы мен тәжірибесіне сыни көзқарастың болуы тұрғысынан қарастырылады.

Автор осындай, оның ішінде «күшті» акторлардың мүдделері, прагматизм және халықаралық қоғамдастыққа тиімді араласу секілді жағдайлардағы мемлекеттердің халықаралық-құқық нормаларын не себепті сақтайтындығының түсініктемелеріне шолу жасаған.

Сонымен қатар, автор адам құқықтарына қатысты халықаралық құқық басқа да салалардағы халықаралық құқықтан айырмашылығы қандай және жалпы ұқсастықтары мәселесін көтереді. Бұған мысал ретінде БҰҰ келісім-шарттық органдарының кейсі алынып, олар адам құқықтарын қорғау және мемлекеттердің өз міндеткерліктерін ел ішінде және халықаралық деңгейде орындауды талап ету бойынша тиімді құралдары болып саналуын қарастырады.

Түйін сөздер: халықаралық құқық, жұмсақ заң, мәжбүрлі түрде мойынсыну, адам құқықтары туралы заң, БҰҰ келісімшарт органдары, заңгерлік стипендия, БҰҰ шарттық органдарының «Көзқарастары» және «Түсініктемелері», міндетті емес халықаралық нормалар, міндетті емес құжаттар.

© 2018 Al-Farabi Kazakh National University

Мухатаева Г., Бузуртанова М.
[1]старший научный сотрудник Представительства Казахстанского института стратегических исследований в г. Алматы, магистр политологии, Казахстан, г. Алматы, e-mail: gmukhataeva@inbox.ru
[2]докторант PhD, факультет философии и политологии, Казахский национальный университет имени аль-Фараби, Казахстан, г. Алматы, e-mail: marem_buzurtanova@hotmail.com

Проблемы эффективности «Мягкого права»: на примере инструментов договорных органов ООН

В статье рассматривается вопрос о том, насколько международное право способно обеспечивать «верховенство» на международном уровне, учитывая отсутствие механизмов принуждения, и критически оценивать идею и практику «мягкого» права в этом контексте.

Автор дает обзор вероятных объяснений того, почему государства соблюдают международно-правовые нормы в подобных условиях, к которым можно отнести интерес «сильных» акторов, прагматизм, стремление лучше социализироваться в международном сообществе. Затем в статье обсуждается вопрос о том, применимы ли эти аргументы к «мягкому» праву.

Далее автор рассматривает вопрос о том, насколько международное право прав человека аналогично или отличается от других отраслей международного права, в том числе с помощью рассмотрения кейса договорных органов ООН по правам человека для выяснения того, являются они эффективным механизмом защиты прав человека и принуждения государств выполнять свои обязательства как внутри страны, так и на международном уровне.

Ключевые слова: международное право, «мягкое» право, механизмы принуждения, право прав человека, договорные органы ООН, юридическая теоретическая наука, «Мнения» и «Комментарии» договорных органов ООН, необязывающие международные нормы.

Introduction

As Henkin famously said «almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time» (Henkin 1979, p.47). however, it is important to know *why* states consent to be bound internationally. Even a more relevant question these days is why states observe the norms that are *non-binding*, so called «soft» law, is even more relevant. Therefore, the aim of the author is not to evaluate the level of effectiveness of the «soft law», but rather to addresses the problem through the lens of the «why» question considering it from three perspectives and subsequently discussing the following: international law, international human rights law and «Views» and «General Comments» of the UN human rights treaty bodies. The rationale behind such a structure of the argument is that any attempt to provide a full analysis of the problem in question would be incomplete and incoherent without the abovementioned endeavor.

Methods

The author asks why states consent to be bound by international law in general and why (and how well) they observe the nonbinding «soft law» norms in particular. In order to do so, the author takes the case of the «views» and «Recommendations» of the UN treaty bodies.

To know whether a plausible answer has already been articulated earlier, the author surveys legally scholarly literature and considers a number of general theoretical arguments explaining states behavior in regard to international law without enforcement that may be applied both on treaty law and customary law, including that of human rights law as well as nonbinding «soft» law. Theoretically, all argumentation surveyed is placed within the following framework: 1) interests of the powerful, 2) individual and collective interests of states, 3) nature and values of states as legal persons, 4) socialization of states amidst other states within a community.

The author then deals with several specific factors of «soft» law; its capacities to encourage international «hard» law-making and emergence of new international customs; its capacities to initiate domestic changes via participation of states in the negotiations and further domestic pressure resulted from increased awareness of the population of the international human rights discourses. Finally, the article deals with the quasi-legal role of the UN treaty bodies.

Methodologically, the legal analysis of this kind makes it possible to weight the scholarly arguments against the «legal facts» discussed further in the article. More precisely, the article is aimed at providing an answer why the «Views» and «General Comments» of the UN human rights treaty bodies, being non-binding, cannot be seen as sufficiently effective to protect human rights domestically choosing the

most plausible explanation among those given by legal theorists.

Literature Review

International Legal Scholarship; Problem on Enforcement and Obedience: before proceeding to the «soft law» problematics, it appears sensible to discuss the capacities of international law, in its most general sense, to provide for «rule of law» internationally without enforcement, its relevance, and its nature before, finally, to dwell upon usefulness of «soft» law.

The problem why states obey international legal norms and create international legal regimes has been long within the focus of the scholarly interest. The two «classical» paradigms of the theory of international law are the «natural law» that holds that fundamental principles of international law can be found in the essential nature of state-persons (Kunz,1961) and the «positivist» arguing that the rules are only those to which state-persons agree to be bound by that they do not exist independently but are born amidst and by states interactions (Brierly, 1928; Higgins, 1995). As the time passed, the views of the legal scholars become more nuanced as legal studies were increasingly more influenced, apart from traditionally major impact of political and moral philosophy, by the developments of the other fields such as social research, political science, international relations. And, most importantly, rather recent empirical turn in international legal scholarship (Shaffer, Ginsburg, 2012). Thus, the two school of thoughts emerged gradually taking the major position within the legal scholarship: the New Haven school explained the problem of obedience without enforcement through its own argument that combined the power and the choice factors (McDougal, 1952; Reisman, 1990), while critical theory set the task to demonstrate that international law had been neither objective nor rational (Koskenniemi, 2005; Charlesworth and Chinkin, 2000; Anghie, 2007).

A widespread opinion among those outside international lawyers' community is that international law is a failure because there is not any enforcement similar to that in domestic law. International law is, therefore, not a law in a proper sense. This skepticism undoubtedly influences behavior of states, more curious however, it is shared by some international legal experts (Goldsmith J. and Posner E., 1999; Hart, 2012). The others, while accepting some «law-likeness», treat it as «primitive law of unsocial international society» (Allott, 1990, p.417, cited in Dixon, McCorquodale and Williams, 2011, p.12).

But more common position among the circles of legal scholars and international lawyers is quite the contrary to that of Allott; international law is not an equivalent to domestic law because of its nature and aim, unlike domestic hierarchical law forced on subjects and citizens, international law of consent based, thus enforcement issue is not a principle one. The argument goes on saying that international law, accordingly, 1) exists only because states agree on it via observing international customs or being parties to treaties 2) is here to provide orderly and predictable conditions for interstate relations, which is a more convenient and rather mutually beneficial state of affairs, to build voluntarily an international legal system that would structure international society of states and regulate their behavior (Byers, 1999). Therefore, international law impacts and is impacted by international politics (Vagts, 2004). Treating interstate relations as society, they, paradoxically enough, come closer to the «natural law» stance although their take is more «natural» in scientific sense as these are natural scientists that describe and explain the existence of behavior patterns of social animals in their natural habitats that are continuous and are beyond being instinctive.

The point is that the abovementioned arguments seem not to resolve the problem of free riders as well as that of iniquity and abuse by the most powerful, that is deemed inevitable in any social system that lacks enforcement. However, although logically and theoretically, these appear coherent arguments, the empirical studies of international (and even domestic) practice reveal the contrary. According to Waldock (1963), violations of law norms are [statistically] rare in any customary systems (Waldock, 1963, p.2); states, even the most powerful ones are not free from society. According to Henkin, international law is useful and necessary for states; to observe international law is in states' interests and, therefore, the existence of international legal system is an outcome of rational choices of those who create and maintain it. States may opt to abandon that rational behavior only when their security and independence are at stake and then «passions, prides and prejudices» are involved (Henkin, 1979). These arguments stay when we talk about international human rights and «soft law» as well as we may see further.

From the historical perspective, Jennings and Watts (1992) argue that states have been increasingly willing to be bound by international legal norms because international legal system means not only obligation but rights for the state actors. International law gives states considerable freedom of action,

but it is important to acknowledge that it «derived from a legal right not from an assertion of unlimited will». It is also very important that international law development and practices have led to that kind of international order where any international situation may be considered as a legal matter (Jennings and Watts, 1992).

«Realists» would certainly reject this argument, stating that international law is a tool of the powerful to impose their will on the less powerful in pursuit of their national interests, but they are unable to explain why the most powerful states «almost always observe» international law themselves (Scott, 1994). Scott's (1994) take on the question allows to overcome this conundrum. For Scott, the question of states' obedience is irrelevant as they neither «obey» nor «disobey» international law but «act so to demonstrate acceptance to the ideology» (Scott, 1994, p.313).

To sum up, the following arguments have been given to answer the why states obey international law without enforcement: nature, power, interests and choice (collective or individual) as well as socialization. In other words, states observe international legal norm even without a proper enforcement because 1) it is in the interest of the powerful, 2) because it is more convenient for all, 3) because of desire to be full-fledged and respectful members of international society/community.

On International «Soft» Law: «soft» law is even more questionable, at least to some experts (most of whom belong to «positivist» camp) because of its non-binding nature. Nevertheless, soft law instruments have been multiplying and «soft» law is very likely to expand further its influence on behavior of states[1].

There are a number of arguments in favor of «usefulness» of «soft» law. Firstly, it has potential for evolving into «hard» law in the future in two ways; as the first step towards a treaty-making, the subsequent treaty then will refer to it; or via a direct influence on states' practices to the extent that may lead to emergence of a new custom (Boyle and Chinkin, 2007). Secondly, «soft» law-making pushes for more profound and rapid changes both internationally and domestically being, from one hand, a convenient vehicle for negotiations among states who are the sole creators of «hard» law and, therefore, increases external mutual pressure (Shelton, 2006). On the other hand, influencing the attitudes of lawyers and human rights activists who, acting domestically, together with ordinary citizens will then increase internal pressure on their governments. Finally, it is regarded as evidence of *opinio juris* on interpretation and implementation of a treaty (Boyle and Chinkin, 2007).

The arguments on international obedience as well as those on «soft» law potential goods should be born in mind as they will be revisited below while analyzing the relevance of «Views» and «General Comments» of the UN human rights treaty bodies as an international mechanism to protect human rights although the argument would be incomplete without an overview of the distinguished characteristics of international human rights and comparison of this body of law with international law in general.

International Law and/or International Human Rights Law: here the author deals with the question of how international human rights law is similar to and different from other International law.

As a form of international law, international human rights law has the same sources (ICJ, Article 38(1)). There is an extended literature on the subject. For example Simma and Alston's book (1988).survey in greatest details the sources of Human Rights Law in the context of traditional formal sources stipulated by the ICJ, namely «international custom», «jus cogens», and «general principles» (Simma, Alston, 1988). A detailed and profound analysis of human rights law development is that of Buergenthal (2006) and of the impact it makes on states behavior – that is the most questionable and debated issue given the arguments surveyed above – is that of Neumayer (2005) and Hathaway (2017).

International human rights law is distinguished from the other bodies of law in short because international law is about states vs states in regard to how they treat each other, while international humanitarian law is about states vs states in regard to how they treat the individuals that are under their jurisdiction. Thus, under international human rights law, states assume responsibility to enforce international human rights law. In this context, international human rights law and international humanitarian law are related, but distinct from each other (Provost, 2002).

Results

The author surveys role and place of the UN system and its treaty bodies for international law, legal and political nature and impact of «Views» and «General Comments» of those treaty bodies and how do they make (if at all) states to adhere to their

1 For statistics on international human rights instruments see http://www.bayefsky.com

human rights commitments both domestically and internationally.

The UN system is central for international community and international law, but, as it is important to bear in mind that, like international law have no enforcement at least in the direct meaning of the term, the UN system shall not be considered as identical to a national government institutions or supranational government body. However, the empirical fact is that the UN is involved into transformation of international society. The second significant aspect is that the member states operate with the UN to pursue not only their individual interests but collective interests (Roberts and Kingsbury, 1993).

Among the instruments of the UN, there have been both binding treaties and non-binding «soft-law» instruments, but all of them constitute a pillar of international human right. In brief, the United Nations member-states adopted the binding Charter, then non-binding Universal Declaration of Human Rights (which then, arguably, attained the customary law status and, therefore, became binding), then a number binding human rights treaty, namely CERD, ICCPR, ICESCR, CEDAW, CAT, CRC, CMW, and CRPD. Being well aware of the problematic issues mentioned above in this article, the members states eventually agreed to establish the bodies that would monitor the observance of those treaties and opened the United Nations Office of the High Commissioner for Human Rights.

The role of the UN treaty bodies is even more significant as there is no a universal court of international human rights law, thus, these quasi-judicial bodies under the UN treaties possess some quasi-legal enforcement powers: to review states reports on the compliance of domestic standards and practices with treaty rights with subsequent observations and comments; to consider inter-state complaints and individual petition and expresses a «View» as to the presence or absence of a violation; CESCR, CAT and CEDAW, provide for a procedure of inquiry missions to find about systematic or grave violations. Having considered a complaint/petition, committees release their «View» with outline the merits of the case. Once the «View» has been issued, saying that a breach has occurred, the «guilty party» (state) shall submit an 'update' describing the steps it has taken to address the violation. Schmidt (2009) deals in detail with «follow-up» activities by the UN treaty bodies and the OHCHR and Niemi (2003) surveys whether the findings by United Nations treaty bodies have been implemented.

Although, there has been considerable increase in both number of treaties and the extent of participation (Bayefsky, 2001), the implementation record by the state parties is not impressive. According to Human Rights Committee (2012), 70% of the replies are unsatisfactory; only about 30% of the follow-up replies «display a willingness to implement its 'Views' or to offer an appropriate remedy to the victim»; in 2002, remedy itself was provided in only 21% of cases (UNHRC, 2002).

The problematic issues that non-binding nature of the treaty bodies Views» (not surprisingly they are not named «Judgments»). The issue of how to make them binding may be resolved only domestically. Or as Hafner-Burton (2013) put it «international laws and procedures must creep into domestic affairs and be taken up by local advocates in order to be effective (Hafner-Burton 2013, p.11). General observation reveals the picture that gives little grounds to be optimistic (Neumayer 2005; Risse and Ropp 2013). Although there are a number of good examples. Krommendijk (2015) describes good practices in the Netherlands, New Zealand and Finland. In the Czech Republic, the Ministry of Justice was reorganized for the purpose of implementation of the «Views» of the UN Human Rights Committee; the Supreme Court reopened a case in Spain after a communication to the Human Rights Committee was made by two previously convicted individuals and its «View» stated that violations had been conducted (ILA, 2004, p.17).

Thus, as we see, although more and more states express their will to be a party to human rights treaties, much fewer have demonstrated good record in terms of observing the procedures of the UN body that monitor these treaties. As it has been shown above, it is true in regards to the «Views» issued by corresponding Committees.

The next question is the situation with the treaty bodies' pronouncements as they are given an authority to interpret the treaties they monitor through the process of writing «General Comments» or «Recommendations» on the nature of obligations. So far, there have been over a hundred «General Comments» mainly by CERD, CCPR, CESCR, CEDAW, and CRC.

Three is no universally agreed position of the legal nature of those «Comments» and «Recommendations». Thus, the Human Rights Committee and the Committee against Torture have pointed that the legal norms which the treaty bodies monitor are binding for the States parties and, therefore, their pronouncements «are more than mere recommendations that can be readily

disregarded» (cited in ILA, 2004, p.5). The most common position of legal experts, however, is that the findings of the treaty bodies are not binding interpretations of the treaties. What do the courts say?

Here are some examples provided by the International Law Association. The Constitutional Court of Spain noted that «the Committee was not a court and that its views did not constitute a binding interpretation of the ICCPR». Similar position was taken by the Supreme Court of Ireland (ILA, 2004, p.3). South Africa, however, agreed to rely upon the Committee under international law to interpret the ICCPR «where the Constitution uses language similar to that which has been used in the international instruments». In the view of the Federal Court of Australia, the Committees' interpretations, although lacking «precedential authority in an Australian court», shall be considered as valid (ILA, 2004, p.5).

The main argument in favor of the treaty bodies «General Comments» is that they shall promote better behavior of states regarding the legal norms of international human rights law via facilitating better understanding of international human rights standards. Although they are not binding, the states that are the parties to a corresponding treaty may and shall wish to know what do the obligations, they have consent to be bound to, mean precisely. For example, Foreign Minister of Norway stated that although the recommendations of the monitoring committees were not legally binding, his government «attach[ed] great importance to them» as guidelines in the efforts to ensure implementation of the human rights treaties (cited in ILA, 2004, p.9).

Discussion

As it has been shown above, more and more states are ready to become parties to international human rights treaties, but fewer states are willing to change their behavior domestically in regards to human rights obligations only because them, being the United Nations members, have established a number of treaty bodies that shall monitor their compliance under those treaties. How can it be explained? Below, the author attempts to apply the legally scholarly arguments to the practices discussed in the above section in order to see which (if any) appears the most probable.

When taking as a premise the «power» argument that is made by both realists and critical theorists, we see that the powerful states are either unwilling or unable to make less powerful states change their domestic practices using the pressure of the UN human rights treaty bodies. Moreover, the benefits for the powerful to do so are not clear. It is much easier and more efficient to exercise pressure on the less powerful unilaterally rather than through complicated mechanisms of multilateral engagements such as the UN.

The «interests» logic suggests that states themselves would like to make international environment more predictable and convenient and therefore, will strive to adhere to some commonly agreed principles. Although it appears to be true as majority of states articulate relatively similar degree of commitments to human rights and join the corresponding treaties, homogenization of domestic adherence to those obligations has not been achieved.

The argument that adherence to human-rights commitments shall derive form «nature» of state-persons is not supported by international practice. It is clear that states are more ready to articulate adherence to human rights intentional legal obligation rather than to fulfill them domestically, which they would do if it was in their «nature» even without any external factors requiring that.

For the «Views», it may be said that the societal argument is the most plausible to explain the states behavior. As for «General Comments», the simple argument has been made that their role is to clarify the meaning of the obligations binding for the signatories to the international human rights treaties. The «Comments» themselves are seen by overwhelming states as nonbinding. Thus, they may or may not take them into account while conducting their domestic policies. Moreover, it has not been any evidence that non-binding «Comments» triggered formation of any biding norms either through treaty conclusion or evolvement of any custom. Therefore, most plausible explanation, is that it is more important for states to be previewed as «good» internationally, than to be «good» domestically.

Conclusions

The analysis above enabled to find the hint on why states, having signed human rights treaties and established monitoring bodies within the United Nations Organization, do not treat their «Views» and «Comments» as binding. Although the literature review on various theoretical approaches within legal scholarship has been rather extensive, the «empirical facts» on domestic legal practices of states appears sporadic and compendious.

This is due to the fact that such matters have been mostly overlooked by legal scholars. It would

be sensible, therefore, to suggest further inquiry, especially those of comparative character, to find out whether – remembering societal argument we have selected among the others as the most preferable – there is a difference between various legal spaces such as European, Latin American, Asian, and Post-Soviet and others in terms of willingness and capacities of the states located within these spaces to allow international human rights law to become a part of their domestic legal and political realities. Comparative studies that would place the problem in the context of dual vs unitary legal systems may also bring to better understanding of these matters in future.

References

Anghie, A. (2007). Imperialism, sovereignty and the making of international law (Vol. 37). Cambridge University Press.

Bayefsky, A. F. (Ed.). (2001). United Nations human rights treaty system: universality at the crossroads. Martinus Nijhoff Publishers.

Boyle, A., Chinkin, C. (2007). The making of international law. OUP Oxford.

Brierly, J. L. (1963). The Law of Nations: An Introduction to the International Law of Peace. edited by Humphrey Waldock. Clarendon Press.

Brierly, J. L. (1928). The Theory of Implied State Complicity in International Claims. Brit. YB Int'l L., 9, 42.

Byers, M. (1999). Custom, power and the power of rules: international relations and customary international law. Cambridge University Press.

Buergenthal, T. (2006). The evolving international human rights system. American Journal of International Law, 100 (4), 783-807

Charlesworth, H., Chinkin, C. (2000). The boundaries of international law: A feminist analysis. Manchester University Press.

Dixon, M., McCorquodale, R., Williams, S. (2011). Cases and materials on international law. Oxford University Press.

Goldsmith, J. L., Posner, E. A. (1999). A theory of customary international law. The University of Chicago Law Review, 1113-1177.

Hart, H. L. A., Green, L. (2012). The concept of law. Oxford University Press.

Hathaway, O. A. (2017). Do human rights treaties make a difference?. In International Law and Society (pp. 3-110). Routledge.

Henkin, L. (1979). How nations behave: law and foreign policy. Columbia University Press

Higgins, R. (1995).Problems and process: international law and how we use it. Oxford University Press.

Hafner-Burton, E. (2013). Making human rights a reality. Princeton University Press.

Jennings, R., Watts A (1992).Oppenheim's International Law: Peace, 1.

Koskenniemi, M. (2005). Global legal pluralism: multiple regimes and multiple modes of thought. Presentation at Harvard Law School, 5.

Krommendijk, J. (2015). The domestic effectiveness of international human rights monitoring in established democracies. The case of the UN human rights treaty bodies. The Review of International Organizations, 10(4), 489-512.

Kunz, J. L. (1961). Natural-law thinking in the modern science of international law. The American Journal of International Law, 55(4), 951-958.

McDougal, M. S. (1952). Law and Power. American Journal of International Law, 46(1), 102-114.

Niemi, H. (2003). National implementation of findings by United Nations human rights treaty bodies: a comparative study. Research reports Åbo Akademi University, 20.

Neumayer, E. (2005). Do international human rights treaties improve respect for human rights?. Journal of conflict resolution, 49(6), 925-953.

Provost, R. (2002). International human rights and humanitarian law (Vol. 22). Cambridge University Press.

Reisman, W. M. (1990). Sovereignty and human rights in contemporary international law. American Journal of International Law, 84(4), 866-876.

Risse, T., Risse-Kappen, T., Ropp, S. C., Sikkink, K. (Eds.). (2013). The persistent power of human rights: From commitment to compliance (Vol. 126). Cambridge University Press.

Roberts, A., Kingsbury, B. (1993). Introduction: The UN's roles in international society since 1945. United Nations, Divided World: The UN in International Relations, Clarendon Press, Oxford, 1-63.

Shaffer, G., Ginsburg, T. (2012). The empirical turn in international legal scholarship. American Journal of International Law, 106(1), 1-46.

Schmidt, M. (2009). Follow-Up Activities By Un Human Rights Treaty Bodies And Special Procedures Mechanisms Of The Human Rights Council–Recent Developments. In International Human Rights Monitoring Mechanisms (pp. 25-34).

Shelton, D. (2006). Normative hierarchy in international law.American Journal of International Law,100(2), 291-323.

Simma, B., Alston, P. (1988). The sources of human rights law: custom, jus cogens, and general principles. Aust. Ybil, 12, 82.

Scott, S. V. (1994). International Law as Ideology: Theorizing the Relationship between International Law and International Politics. Eur. J. Int'l L., 5, 313.

Reports

International Law Association. Report on UN Treaty System, 2004. http://www.bayefsky.com/reform/ila.php [accessed 11 May 2018]

UNHRC 2002 Global Report. http://www.unhcr.org/publications/fundraising/4a0c24cf6/global-report-2002.html [accessed 10 May 2018]