

ENFORCEMENT IN THE FIELD OF HUMAN RIGHTS

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In 1988 the United Nations published The International Bill of Human Rights. In his introductory message to the publication the Secretary-General Javier Pérez de Cuellar explained that the Universal Declaration of Human Rights, proclaimed in 1948, immediately became the authoritative statement of those basic rights to which all are entitled. The International Bill of Human Rights became a reality when the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights entered into force in 1976.

The Secretary-General characterized the Universal Declaration as a moral document of first importance, while the Covenants were said to add legal force. In other words, the norms of the Covenants are binding but the norms of the Universal Declaration just advisory. On closer inspection you may question the truth of this distinction. At least you may want to know if the meaning of the concepts of legal and binding force in international law is the same as in, for instance, domestic civil law. When the Romans established the principle of *Pacta sunt servanda*, that principle was not just a theoretical principle but a principle that implied enforcement through a legal machinery. But in international law usually no law enforcement machinery is available. This article is meant to illustrate from the point of view of experiences from the Human Rights Committee how elusive the binding force of the articles of the International Covenant on Civil and Political Rights sometimes may seem and how strong it nevertheless normally is. I have chosen this subject in admiration of all efforts Dr. Joseph A. L. Cooray made as a member of the Human Rights Committee to make State Parties to the Covenant to understand what a serious commitment an acceptance of the Covenant by a ratification implies and how important a compliance with the articles of the Covenant to the best of their abilities is. When dealing with a report from a State Party Dr. Cooray in the first place wanted to know how the legal system in the country had been adapted in order to promote the implementation of the Covenant, particularly how the Constitution interplayed with the Covenant and what was the place and the powers of the Judiciary. His observations were very pertinent and hopefully made longlasting impressions on the State representatives.

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