



Hacettepe University Graduate School of Social Sciences  
Department of International Relations

**THE GOVERNANCE OF INTERNATIONAL HUMANITARIAN  
ORDER: NON-COERCIVE PRACTICES OF THE UNITED  
NATIONS**

Burçak Kılınç

Master's Thesis

Ankara, 2013



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## KABUL VE ONAY

Burçak Kılınç tarafından hazırlanan “The Governance of International Humanitarian Order: Non-coercive Practices of the United Nations” başlıklı bu çalışma, 16.09.2013 tarihinde yapılan savunma sınavı sonucunda başarılı bulunarak jürimiz tarafından Yüksek Lisans Tezi olarak kabul edilmiştir.

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Burçak Kılınc

To My Mother and Brother

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## ÖZET

KILINÇ, Burçak. *Uluslararası İnsani Düzenin Yönetiřimi: Birleřmiř Milletler'in Zorlayıcı Olmayan Uygulamaları*, Yüksek Lisans Tezi, Ankara, 2013.

Bu alıřmanın temel amacı, uluslararası insani düzenin yönetiřiminin teorideki ve uygulamadaki boyutlarını ve de Birleřmiř Milletler'in bu yönetiřim sürecindeki yerini ortaya koymaktır. Uluslararası insancıl düzen, ölkeler, kuruluşlar ve sivil toplum tarafından dünya apındaki tehlikeli ve düzensiz durumları, gereksiz mazlumiyeti ortadan kaldırma ve kötü kořullarda yařamlarını sürdüren insanlara daha iyi kořullar yaratmak adına normları, kanunları, gayrıresmi kurumları ve birçok uluslararası giriřimi içermektedir. Günümüzde bu düzen, global yönetiřimle birlikte Birleřmiř Milletler'in insan haklarını gözeten, zorlayıcı olmayan uygulamaları ile saęlanır durumdadır. Bu bağlamda, tez Soęuk Savař sonrası dönemde açıklayıcı ve yorumlayıcı methotlarla uluslararası yönetiřimi, incelemektedir.

Genel olarak, tez, yönetiřim, insani düzen ve insan hakları kavramlarının birbirleriyle yakından ilgili olduęunu ve de Birleřmiř Milletler'in tüm bu kavramlar için kilit noktada olduęunu savunmaktadır. Bunu yaparken, liberal teori ve global yönetiřim yaklařımından yararlanarak yönetiřim, insancıl düzen ve insan hakları tanımlarını yapmayı; bunların ana özelliklerini ortaya koymayı; insancıl düzenin yönetiřiminin insan hakları boyutunda uluslararası arenadaki yerini analiz etmeyi ve de bir yönetiřim uygulayıcısı olarak Birleřmiř Milletler'in olumlu ve olumsuz eleřtirisini yapmayı amaçlamaktadır.

### **Anahtar Sözcükler**

Yönetiřim, İnsani Düzen, İnsan Hakları, Birleřmiř Milletler, Zorlayıcı Olmayan Uygulamalar.



## ABSTRACT

KILINÇ, Burçak. *The Governance of International Humanitarian Order: Non-coercive Practices of the United Nations*, Master's Thesis, Ankara, 2013.

The main purpose of this study is to present the theoretical and practical dimensions of the governance of international humanitarian order and the role of the United Nations in this governance process. International humanitarian order involves norms, laws, informal institutions and many international initiatives by states, organizations and civil society with the purposes of removing dangerous and unstable situations, unnecessary suffering and protecting of those in all kinds of poor conditions all over the world. In today's world, this order is maintained by global governance practices, especially the non-coercive ones, which are implemented by the United Nations with regard to the protection and promotion of human rights. In this respect, the thesis analyzes the international governance in the post-Cold War era with descriptive and interpretive methods.

In general, the thesis argues that the concepts of governance, humanitarian order and human rights are closely related to each other and the United Nations at the key point for all these concepts. At that time, making definitions of governance, humanitarian order and human rights by using liberal theory and global governance approach; presenting these concepts' essentials; analysis of the place of governance of humanitarian order in international arena, considering human rights and criticism of the United Nations as an implementer of governance are aimed.

### Key Words

Governance, Humanitarian Order, Human Rights, United Nations, Non-coercive Practices.

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## LIST OF ABBREVIATIONS

<b>CAT:</b>	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>CEDAW:</b>	Convention on the Elimination of All forms of Discrimination against Women
<b>CFA:</b>	Comprehensive Framework for Action
<b>CFS:</b>	Committee on World Food Security
<b>CHR:</b>	Commission of Human Rights
<b>CHS:</b>	Commission on Human Security
<b>CRC:</b>	Convention on the Rights of the Child
<b>CRPD:</b>	Convention on the Rights of Persons with Disabilities
<b>DPKO:</b>	United Nations Department of Peacekeeping Operations
<b>DRR:</b>	Disaster Risk Reduction
<b>ECHR:</b>	European Convention on Human Rights
<b>EU:</b>	European Union
<b>FRONTEX:</b>	External Borders of Member States of the European Union
<b>HFA:</b>	Hyogo Framework for Action
<b>HLTF:</b>	High-Level Task Force
<b>HRC:</b>	Human Rights Council
<b>IASC:</b>	Inter-Agency Standing Committee
<b>ICCPED:</b>	International Convention for the Protection of All Persons from Enforced Disappearance

<b>ICCPR:</b>	International Covenant on Civil and Political Rights
<b>ICERD:</b>	International Convention on the Elimination of All Forms of Racial Discrimination
<b>ICESCR:</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICISS:</b>	International Commission on Intervention and State Sovereignty
<b>ICRC:</b>	International Committee of the Red Cross
<b>ICRMW:</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>IDPs:</b>	Internally Displaced Persons
<b>ILO:</b>	International Labor Organization
<b>IMF:</b>	International Monetary Fund
<b>IOM:</b>	International Organization for Migration
<b>MENA:</b>	Middle East and North Africa
<b>MINUSTAH:</b>	United Nations Stabilization Mission in Haiti
<b>NHRIs:</b>	National Human Rights Institutions
<b>OHCHR:</b>	Office of the High Commissioner for Human Rights
<b>ONUCI:</b>	United Nations Operation in Côte d'Ivoire
<b>POC:</b>	Protection of Civilians in Armed Conflict
<b>R2P:</b>	Responsibility to Protect
<b>SDC:</b>	Swiss Agency for Development and Cooperation
<b>UDHR:</b>	Universal Declaration of Human Rights
<b>UN:</b>	United Nations
<b>UNCTs:</b>	United Nations Country Teams

<b>UNDP:</b>	United Nations Development Report
<b>UNESCO:</b>	United Nations Educational, Scientific and Cultural Organization
<b>UN-HABITAT:</b>	United Nations Human Settlements Program
<b>UNHCR:</b>	United Nations High Commissioner for Refugees
<b>UNICEF:</b>	United Nations Children's Fund
<b>UNIPSIL:</b>	United Nations Integrated Peace-building Mission in Sierra Leone
<b>UNISDR:</b>	United Nations Office for Disaster Risk Reduction
<b>UNMAS:</b>	United Nations Mine Action Service
<b>UNODA:</b>	United Nations Office for Disarmament Affairs
<b>UNOPS:</b>	United Nations Office for Project Services
<b>UNV:</b>	United Nations Volunteers
<b>UPR:</b>	Universal Periodic Review
<b>WFP:</b>	World Food Programme
<b>WHO:</b>	World Health Organizations
<b>WTI:</b>	World Tribunal on Iraq
<b>WTO:</b>	World Trade Organization

## INTRODUCTION

The maintenance of world order has been one of the chief aims in international relations. Throughout the history of international relations, many attempts have been made and different foreign policy instruments have been used in a number of international systems in order to achieve peaceful coexistence and world order.

Because of the dynamic structure of international society, there are a variety of theories explaining and understanding international relations. In recent decades, liberal approach has been a popular one with its emphasis on progress, non-state actors, cooperation and peace. In general, liberal perspective argues that cooperation among nations is possible through the inclusion of other actors like international institutions, non-governmental organizations, civil society etc. in addition to the state. In this way, liberalism provides a more comprehensive point of view to the world order.

From the ideal liberal point of view, a world government is required as a determinant of peace, in which decisions regarding international society are mediated and enforced with cooperation and mutual interaction between actors. In this respect, global governance approach is relatively compatible with the world government idea of liberalism, referring to the exercise of authority through political and institutional processes. It provides a normative perspective to world affairs with the help of enhanced actor numbers and cooperation among them. Under the circumstances of globalization, and with the rise of supranational organizations and political linkages at the global level, the concept of governance has gained functionality for international society in providing order after the end of the Cold War.

In the post-Cold War period, a variety of issues have emerged in the global agenda. Issues like terrorism, proliferation of weapons of mass destruction, migration, poverty, environmental degenerations and violations of human rights etc. have adverse implications for the world order. As a consequence, there has been a shift in the security thinking from national security to a more categorized security understanding such as,

human security, gender security, social security, environmental security and economic security. In this context, the governance of international humanitarian order, which aimed to create peaceful coexistence of societies, has emerged as an offer within comprehensive as well as controversial dynamics.

The governance of international humanitarian order is about taking responsibility in international arena. By the very nature of international system and by virtue of their power and prestige, this responsibility falls on the powerful actors of the international society. In this context, the dominant role of great powers in international governance with regard to credibility, accountability and functionality becomes significant. Their attitudes and practices raise curiosity within international society because they are mainly related to different interpretations of international norms and arbitrary uses of these norms, particularly in the field of human rights.

Human rights are very important and fragile issue in today's world in the contexts of both domestic and international politics. Respect for human rights is seen as a precondition to be considered as a civilized nation. Besides being a pre-condition for acquiring such a vital label, with the acceptance of the existence of non-state actors in addition to states as well as the increasing importance of human factor, human rights field has become increasingly significant. In this regard, the United Nations (UN) is distinguished as a world-wide international organization, which was founded on the principle of the protection of and respect for human rights.

In this vein, human rights as a field and the UN as an actor are highly crucial in the context of the governance of international humanitarian order. Since the UN is a global organization, it serves as a more democratic forum for credible international governance. From a systemic perspective, it is important to have power but it is even more important to share this power with the intention of contributing to global development in all aspects like political, economic, social, cultural, etc. Considered from this point of view, the UN is a crucial means between states. Its mission as a supervisor of protection of human rights all around the world is undeniable.



Since its foundation, the UN has become a prominent organization in global order. Its work has indeed significantly contributed to international peace and security, social progress, better living standards and human rights. Rather than principles of the UN, how it fulfills these principles is more deputed than the principles' meanings. In particular, in the field of human rights, the UN's practices have drawn the attention of many states and human rights activists. In maintaining world order, one controversial measure is humanitarian military intervention. However, as stated in the UN Charter, non-use of force is essential to preserve the order and thus, the prohibition of the threat and the use of force is one of the most important international norms. In this context, the UN's non-coercive practices of human rights are prioritized. Nevertheless, regarding human rights, in the literature, there are numerous studies focusing on forcible humanitarian intervention, while non-coercive measures remain understudied. Therefore, a study on the UN's non-coercive measures in the governance of international humanitarian order is a significant contribution to the literature.

The main argument of this thesis is that the concepts of global governance, international humanitarian order and human rights are interrelated and the UN is the main actor for the maintenance. In this vein, this thesis seeks two main purposes. First, it tries to examine the theoretical and practical dimensions of the governance of international humanitarian order and then, to examine the non-coercive human rights practices of the UN as a direct part of the international governance. In this context, the goal of the thesis is to analyze the ideas behind the concept of international governance by considering pros and cons of its imposition by the UN, especially relating to the human rights issue.

In order to present a comprehensive study, the fundamental research question is specified as "What are the available tools and non-coercive practices of the UN in the context of the governance of international humanitarian order?". Nonetheless, this is a multidimensional subject. To answer to this question, the thesis attempts to answer the following sub-questions as well:

- What are the main determinants of governance?

- How are the main needs of international humanitarian order determined?
  
- What is the place of human rights in international governance?
  
- What kind of approach does the UN have about the field of human rights?
  
- In what ways the UN has tried to promote and protect the human rights with non-coercive practices?
  
- Are contemporary practices of the UN to protect human rights enough?

Within this context, this thesis aims to determine the role of the UN in the governance of international order specifically in the human rights field, especially by using non-coercive tools and its criticism as whether it works or not.

The time frame for this study is determined as the post-Cold War era. The concept of governance is not new but it has become increasingly important in international politics after the end of the Cold War with the changing structure of global politics, which now includes non-governmental actors, human security, norms and moral values. So it would be appropriate to examine the post-Cold War era that witnessed many interventions both coercive and non-coercive, and several debates concerning human rights with respect to the domestic and foreign policies of the states. Books, articles, periodicals, internet sources and other kinds of relevant literature are examined in this research.

The thesis is organized around five chapters, the fifth one being the conclusion. The first chapter provides the debates regarding the concept of governance and human security. The concept of governance has changed in time due to changes in the international system and perceptions in international arena about agenda setting topics. After the increase of human-oriented approaches, human security gained importance in International Relations (IR) discourse. Furthermore shifting views about threats to international order have led to different international measures to provide security,

peace and order. The Chapter also examines various definitions of the concepts of governance, good governance and human security.

The second chapter deals with international humanitarian order. International humanitarian order comprise of norms, laws, informal institutions and many international initiatives by states, organizations and civil society for the purposes of removing dangerous and unstable situations, unnecessary suffering and protecting of those in all kinds of poor conditions all over the world. This chapter seeks to explain the components of this order and different perspectives on maintaining such order from past to present. It also includes the current tools to provide international humanitarian order, which are used by the UN.

The third chapter studies the perception of human rights concept in general and introduces the UN as a leading actor in promotion and protection of human rights. It discusses the UN's founding principles, structure as well as role in international politics. It further provides a general overview of the UN's human rights bodies and the Universal Declaration of Human Rights.

The fourth chapter discusses the organs of the UN human rights mechanism and the means of protection of human rights in general, and non-coercive ones in particular. This chapter aims to present practicable side of the human rights. In previous chapters, human rights understanding and mechanism are presented in descriptive and theoretical way. In the lights of these, the fourth chapter tries to clarify how governance contributes to the protection of human rights, cases from different regions are presented in the chapter as good governance practices for the protection of human rights.

Al in all, this study attempts to examine the governance of international humanitarian order with the practices of the UN from the perspective of human rights. It also tries to make some criticisms for a more efficient implementation of governance in accordance with international society's needs.

## **CHAPTER 1**

### **CONCEPTUAL FRAMEWORK:**

#### **GLOBAL GOVERNANCE AND HUMAN SECURITY**

To maintain the peaceful coexistence seems to be one of the most important goals in today's international arena. This goal could be realized with an effective global governance system, which is compatible with liberalism's key points such as increasing importance of international organizations and human-oriented approaches for world order.

Especially after the end of the Cold War, the individual as an actor has gained prominence with the changing perceptions of security and development. Unlike state-centred approaches, management of current world affairs have increasingly come to require cooperation within the international society, and interdependence has become a fact of the contemporary international system. Within the context of dynamic workings of international relations, the relatively recent notion of global governance which embraces a multilevel analysis provides a useful framework to analyze current world affairs.

#### **1.1. THE CONCEPT OF GOVERNANCE**

The notion of governance has gained significance as a result of growing interdependence, as well as globalization. To the extent that globalization refers to a process that includes "a fundamental shift or transformation in the spatial scale of human social organization which links distant communities and expands the reach of power relations across regions and continents", global governance emerges as an evolving system of political coordination within this globalization process (McGrew, 2006, p. 24). In this framework, it can be said that globalization, interdependence, and global governance are intertwined and mutually complementary concepts.

At the very outset, it should be underlined that the concepts of “government” and “governance” are not synonymous. As Thomas Weiss (2000) indicates, “many academics and international practitioners employ ‘governance’ to connote a complex set of structures and processes, both public and private, while more popular writers tend to use it synonymously with ‘government’” (p. 795). Governance has a broader meaning than government in that it not only includes but also transcends and enhances the concept of government. Global governance refers to well-organized decision-making and action by a number of actors in a globalized arena, more or less beyond the full control of state governments, which can be carried out by state and non-state actors (Hettne, 2002, p. 7). Government is one of the elements in governance among others such as state, regime and civil society. In general sense, governance is associated with the activities of governments (Ozgercin & Weiss, 2009, p. 139). While government is more related to the public administration of a defined territory and population, global governance is about administration of world society that is not a static and well-delaminated concept; it is a dynamic and still emerging process (Zahran & Ramos, 2009, p. 4).

Nonetheless, there exist a number of definitions of governance in the literature. For example, the United Nations Development Programme (UNDP) (1997) defines global governance in its glossary of key terms as

the exercise of political, economic and administrative authority to manage a nation's affairs. It is the complex mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights and obligations, and mediate their differences (para.11).

According to the World Bank Institute (2011), on the other hand,

Governance is ... the traditions and institutions by which authority in a country is exercised for the common good. This includes (i) the process by which those in authority are selected, monitored and replaced, (ii) the capacity of the government to effectively manage its resources and implement sound policies, and (iii) the respect of citizens and the state for the institutions that govern economic and social interactions among them.

Concisely, global governance refers to “a search for order in disorder, for coherence in contradiction and for continuity in change” and masks “both growth and decay” (Rosenau, 1988, p. 28). James Rosenau (1988) indicates that hierarchical framework of traditional understanding of international relations is no longer valid in the context of world order, he argues that practices and institutions of global governance are the prominent components of contemporary international system with the aim of agreeing on a common ground (pp. 29-30).

On the other hand, Michael Zürn (2010) views global multi-level governance as “an emerging political order constituted by multiple actors on several distinct levels of policy-making, with each other level being equipped with some form of political authority and interacting with other levels” (p. 88). According to this perspective, various means and systemic levels could be effective in order to reach final outcome, which is defined as peaceful world order. In this sense, global governance is the sum of levels of systems of rule at all levels of human activity, from family to the international organization (Rosenau, 1995, p. 13).

In a similar vein, according to Messner and Nuscheler (1997), global governance is the creation of networks, from the local to the global level, based on a shared problem-solving orientation, a fair balance of interests and a workable canon of shared norms and values as a basis for institutional structures for the handling of problems and conflicts (p. 36).

Taking into account these definitions, governance can be seen both as the process of decision-making and a process through which decisions are implemented (McCawley, 2005). In these processes, there are several actors such as governments, non-governmental organizations, research institutes, religious leaders, finance institutions, political parties, the military, media, lobbyists, international donors, multinational corporations, etc. These actors constitute the components of civil society as well as the government and military (McCawley, 2005). From this point of view, multiplicity of actors does not create a disadvantage. On the contrary, it is beneficial in determining and reaching common interests within international society.

In addition to the conceptual aspects of governance discussed above, global initiatives and developments during the last two decades are also noteworthy within the global governance framework. First of all, in the 1990s, the UN initiated global conferences on policy issues, which significantly helped to increase the transnational civil society networks and to promote global participation (Falk, 2009, p. 63). Secondly, the European Union (EU) is, in many ways, an example of global governance in action as it has moved “the theory and practice of democracy beyond the nation-state and established a political community that is only ‘indirectly’ based on a state sovereignty” (Falk, 2009, p. 63). In this sense, the EU has made contributions to the development of democracy at regional scale that would be helpful for an improved idea of global governance.

Another indication of global governance initiative is the idea of “the new internationalism” that refers to active and effective coalitions between various non-governmental actors and governments of states so it would be possible “to overcome the concerted geopolitical objections of the most powerful political actors to produce new authoritative norms, procedures and institutions for international society” (Falk, 2009, p. 64). In this framework, global governance would no longer be based on a vertical division of the world into the ruling powers and all the rest, but instead it would be established through a horizontal system of cooperation among nations of presumably equal status (Iriye, 2005). The practical reflections of the new internationalism in the 1990s comprise the adoption of an Anti-Personnel Landmines Treaty and the establishment of the International Criminal Court (Falk, 2009, p. 64).

The fourth development that relates to global governance is the implementation of international legal standards by national judicial bodies especially within the framework of criminal accountability. The enforcement of international norms by national courts points to the emergence of a sense of global governance guided by potential accountability based on a set of minimum constraints on the highest officials governing sovereign states (Falk, 2009, p. 64). Within the global governance formation, access to justice and the creation of an atmosphere for the rule of law at the domestic level, contribute to the welfare at the international level (UNDP, 2013).

The fifth is the existence of tribunals formed by the civil society itself. The World Tribunal (WTI) on Iraq, concerning American invasion and occupation of Iraq, as a compilation of 20 civil society tribunals all over the world, which was held in Istanbul in 2005 could be a good example as global governance initiative (Falk, 2009, p. 65). This tribunal was established in order “to fill the gap created by the unwillingness and inability of either governments in international society or the UN to act meaningfully to uphold the fundamental norms of international law prohibiting aggressive warfare and the unlawful occupation of sovereign states” (Falk, 2009, p. 65). The aim of WTI was uncovering the truth about the Iraq War as clearly as possible, and drawing conclusions that underscore the accountability of those responsible. This initiative underlines the significance of justice for the Iraqi people (Transnational Institute, 2005) and contributes to governance process with civil society inclusion.

Lastly, there is a movement toward global democracy based on the education of citizens, which is considered to have the potential to make a significant contribution for internalizing global values and outlook, on the axis of human rights, peace and human security (Falk, 2009, p. 66). As a result, human-centered perspectives are expected to be more effective within the global governance understanding.

As such, global governance today comprises a number of developments and ideas devoted to increased participation and dynamic regulations. Governance is not only about regulating the existing practice but also about resolving conflicts and overcoming inefficiencies between actors (Barnett, 2010, p. 10). Thus, in its essence governance is a method for the maintenance of world order.

On the other hand, there are some shortcomings that constitute obstacles for the process of global governance. Among these, the most significant is considered to be the “increasing politicization of international institutions” due to the “likelihood of non-compliance and legitimacy problems” (Simmerl, 2011, p. 18). Since there are no overarching constitutional mechanisms for coordination, governance requires global awareness and collective undertaking. States’ efforts to contribute to international governance are significant, yet insufficient. Within societies, governments have



coercive impact on individuals that can lead to change in their behaviors. In this regard, Stein (2008) states:

Governments can socialize individuals and use the media and information flows to shape the ways in which individuals view the world. They can also induce behavioral change by manipulating the incentives that individuals face. In short, governments function at a supra level of authority in relation to the individuals whose behavior they seek to engineer (p. 20).

However, international organizations do not have a similar direct behavioral impact on individuals while they can have important influence on inter-state relations.

Due to the absence of a higher authority in international system, policies of governments in international arena are shaped by mutually and commonly agreed decisions, which are called as the international norms. Since international organizations represent a mechanism through which these norms are enforced and implemented, the issue of the credibility of these organizations is crucial. It is a fact that “the decisions of international organizations reflect the interests of their constituent governments, and enforcement depends on them as well” (Stein, 2008, p. 21). Therefore, in order to provide a neutral atmosphere, it is important that the members of the international society embrace international norms.

The actors of international society are expected to obey international norms. Generally speaking, failure to observe these norms requires the imposition of serious and extensive sanctions. Therefore, the existence of non-state actors is necessary within the concept of governance as control mechanisms through their moral authorities over members of international society in order to overcome the problems. In addition, with the changing international environment and states' inability to meet citizens' needs especially in developing and poor countries, the participation of civil society and private sector in sharing the burden of societal development has become an urgent need (Fawzi, 2005, p. 2). Thus, it is important and necessary to have sustainable cooperation of actors in governance process. In one respect, this could be seen as burden sharing for the sake of maintaining a peaceful and stable world order. According to Thomas Weiss (2010), global governance includes collective efforts to identify, understand or address

worldwide problems, that go beyond the capacity of individual states, referring formal and informal institutions, mechanisms, relationships, and processes between and among states, markets, citizens and organizations, both intergovernmental and nongovernmental, with respect to collective interests (p. 6).

As such, the concept of global governance has an important place in inter-state relations. Due to its solution-based normative structure, the concept appears as a useful approach within IR literature.

### **1.1.1 Emergence of Global Governance as an Approach**

During the 1980s and 1990s, emphasis on international regimes, including international norms, rules, and decision-making procedures increased and states began to coordinate their policies and collaborate in the production of international public goods, such as free trade, arms control, and environmental protection (Recchia, 2011, p. 1437). Thus, as Stefano Recchia (2011) states, “it is only over the past decade or so that liberal international relations theorists have begun to systematically study the relationship between domestic politics and institutionalized international cooperation or global governance” (p. 1437).

In this framework, global governance has come to be a renowned IR concept during the 1990s as a result of growing number of international organizations and regimes that affect the most diverse spheres of international system (Zahran & Ramos, 2009, p. 3). The Study Commission’s ‘Globalization of the World Economy: Challenges and Answers’ of the Deutscher Bundestag (2002) explains this point as the following:

As the world becomes increasingly globalized and economic activities grow beyond national regulatory frameworks, it becomes more necessary to politically shape economic, social and environmental processes on a global scale. How the global challenges can be democratically managed has recently begun to be discussed under the heading of ‘global governance’ (p. 67).

Generally, the current discourse on global governance can be said to have emerged from the study of international organizations (Ozgercin & Weiss, 2009, p. 138). With its inclusion of non-state actors in IR literature, liberal thinking paved the way for the rise of international organizations as tools for international politics. In this respect, states are not seen as the only actors in IR and international organizations have become the institutions of global governance.

In the essence of the global governance argument, there is the acquisition of authoritative decision-making capacity by non-state and supra-state actors (Fuchs, 2002, p. 11). Until the 1970s, only sovereign states' activities were considered in the field of IR. Despite the mounting literature on international institutions, the perception that institutions serve as instruments for governments continued in a certain way (Ozgercin & Weiss, 2009, p. 138). In this regard, there is an absolute interrelatedness in relation to the actors of global governance. Wilkinson (2002) states that global governance can be thought of as various patterns in which global, regional, national and local actors combine to govern particular areas and it cannot be defined only by the emergence of new actors or modes of authority (p. 2). In this context, central unit of analysis of global governance is the conditions for social activity e.g. norms and rules; not only actors and relations between them (Dingwerth & Pattberg, 2006, p. 199).

From Rosenau's (1995) perspective, who has work on global governance closest to a theoretical perspective, global governance "refers to more than the formal institutions and organizations through which the management of international affairs is or is not sustained" (p. 13). In his perspective, although the UN system and national governments are essential to the management of global governance, they represent "only part of the full picture (Rosenau J. N., 1995, p. 13).

According to Ozgercin and Weiss (2009), states remain the most powerful decision-makers in the global system but their power is being transformed both by the intricate relations between states, markets and various civil society associations (p. 139). In this context, as John Ruggie (2004) emphasizes, formerly, there was largely a state-centric governance model, but now, a panoply of actors including states, international

organizations, and even non-governmental organizations are part of governance structures (p. 507).

Not only international organizations with wide membership such as the UN, IMF, and WTO, but also smaller institutions with varied structures are sources of governance and the interactions between them develop new types of relations that were previously nonexistent (Zahran & Ramos, 2009, p. 3). Examples for global governance institutions include several agencies of the UN system, the World Bank, WTO, IMF, as well as institutions as G-8 and World Economic Forum in Davos, private associations as the International Chamber of Commerce, band rating agencies, great oligopolies in the areas of insurances, accounting, consultancy of high technology, media conglomerate and telecommunications, nongovernmental organizations as the Red Cross and the Amnesty International, Greenpeace, World Wildlife Forum, Oxfam, the manifestations of the World Social Forum, religious movements, political associations in global scale (Murphy, 2002, p. xi).

In certain areas, norms and international treaties are as important as international organizations, arguably sometimes even more. Such normative structures include international law, environmental norms or labor standards. They are integral components of global governance together with international organizations and established bureaucracies (Zahran & Ramos, 2009, p. 4). With all of these components, “global governance offers an analytical concept to subsume various efforts at the global level to come to terms with this loss of control and to balance the uncontrolled processes of globalization” (Späth, 2002, p. 1).

In fact, conceptualization of global governance is constituted by the need for more cooperation between governments, governmental and non-state actors with more coordination within the framework of the UN system in addition to a central position of humans within politics (Mürle, 1998, pp. 10-11). In the scope of these needs, emergence of the notion of global governance as a theoretical approach, was affected by three processes:

- the end of the Cold War and the expectation that the United Nations would assume a more assertive posture in the international system, especially regarding the suppression of conflicts and humanitarian interventions
- the perception that the economic globalization processes are increasingly directed by international institutions
- the emergence of a global civil society constantly interacting with international organizations, especially in themes such as environmental protection, human rights, women rights, among others (Hewson & Sinclair, 1999, p. 13).

In this context, it should be noted that the concept of global governance differs in four ways from traditional approaches on dynamics of IR discipline. First of all, while IR discourse is mostly concerned about politics among nations and minimum degree of involvement of non-state actors, global governance does not present such a hierarchy. It rather places equal importance on all actors of the international system from a multi-actor perspective on world politics (Dingwerth & Pattberg, 2006, p. 191).

Secondly, according to traditional literature of International Relations, international interaction can be analyzed separately from interaction at other levels of social interaction. However, global governance views world politics as a multilevel system with the combination of local, national, regional and global political functions (Dingwerth & Pattberg, 2006, p. 192).

Thirdly, traditional approaches of International Relations are concerned with power relations, interest-based interstate bargaining, the role of norms and advocacy networks as the impulsion beyond the state; on the other hand, global governance assumes that a wide variety of forms of governance exists and that a hierarchy among these various mechanisms is hard to discern (Dingwerth & Pattberg, 2006, p. 192). According to Rosenau (1995), when it comes to governance, “the world is too disaggregated for grand logics that postulate a measure of global coherence” (p. 16). In this respect, within domestic framework, governance makes reference to horizontal processes of self-coordination that change the relation between public and private interests, while within international framework, where there is no central authority, governance comprises of intergovernmental negotiations as well as other, less formal processes (Dingwerth & Pattberg, 2006, p. 192).

Fourthly and lastly, in traditional International Relations theories, research focus is on authority and its legitimation in close connection with the state's ability to pursue its rational self-interest. In contrast, global governance perspective considers the emergence of new spheres of authority in world politics independently of sovereign nation-states (Dingwerth & Pattberg, 2006, p. 193).

In the light of these, the research agenda of global governance includes questions such as: "what forms of social regulation do exist at the global level? Where do global norms, rules and standards come from? How are they constructed, interpreted, implemented and adjudicated? What relationships exist between rule maker and rule takers? What are the consequences of global norms, rules and standards? Who benefits? Who loses?" (Dingwerth & Pattberg, 2006, p. 199).

Answers to these questions are not always clear. There are problematic areas within the concept of global governance as power imbalances, national and international problems with democracy and legitimization, and lack of an ethical normative consensus (Deutscher Bundestag, 2002, p. 74). Multifactorial structure of global governance could cause disruptions in the process of implications, as various actors' efforts for creation of a common, fair and livable environment cannot be always smooth. From national perspective, adaptation to globally accepted rules without compensation from national values is a challenge. In this sense, global governance process requires an environment of trust. However, there is ambiguity about who decides what for whom (Dingwerth & Pattberg, 2006, p. 196). National actors should be certain about the good intentions and nonexistence of exploitation and subordination. Thus, creation of a common ground is essential for an understanding of global governance.

All in all, the concept of governance indicates the institutionalization of patterns and practices of the international system, in collaboration with new forms of multiple interactions between new and traditional actors in local, regional and global levels (Zahran & Ramos, 2009, p. 7). In its widest sense, the concept refers to solidarity between the haves and the have-nots in metaphorical understanding. The quality of global governance is related with the ethical and practical concerns, which could be

seen in the areas of global security, economic interdependence, the structure of the UN and the rule of law (Dingwerth & Pattberg, 2006, p. 194). Thus, from this perspective, the existence of qualified governance, “good governance”, becomes important and necessary in international arena in order to cope with the problems states alone cannot solve.

### 1.1.2 Good Governance

The concept of good governance relates to the ethical aspect of governance (Godbole, 2001, p. 2). Good governance comprises the view that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources (UNDP policy paper, 1997). According to the World Bank (1994) definition:

Good governance is epitomized by predictable, open and enlightened policy-making, a bureaucracy imbued with professional ethos acting in furtherance of the public good, the rule of law, transparent processes, and a strong civil society participating in public affairs. Poor governance (on the other hand) is characterized by arbitrary policy making, unaccountable bureaucracies, unenforced or unjust legal systems, the abuse of executive power, a civil society unengaged in public life, and widespread corruption (p. vii).

The concept of good governance has eight features: *participation* that refers to an organized civil society and freedom of association and expression by both men and women; *rule of law* that refers to fair and impartial legal frameworks and respect to the human rights with independent judiciary and an impartial and incorruptible police force; *transparency* that refers to the information is freely available and directly accessible to those who will be affected by such decisions and their enforcement; *responsiveness* that refers to the institutions’ and processes’ tries about serving all stakeholders within a reasonable timeframe; *consensus orientation* refers to mediation of the different interests in society to reach a broad consensus in society on what is in the best interest of the whole community and how this can be achieved; *efficiency* refers to processes and institutions produce results that meet the needs of society while making the best use of resources at their disposal like the sustainable use of natural resources and the

protection of the environment; *equity and inclusiveness* refers to ensuring that all its members feel that they have a stake in it and do not feel excluded from the mainstream of society for a society's well-being and *accountability* refers to being accountable of governmental institutions, the private sector and civil society organizations to the public and to their institutional stakeholders (United Nations Economic and Social Committee for Asia and Pacific, 2011).

In addition to those, Adel Abdellatif (2003) indicates that according to the UN High Commissioner for Human Rights, good governance is directly related to the degree to which it delivers on the promise of human rights: civil, cultural, economic, political and social rights and whether the institutions of governance effectively guaranteeing the right to health, adequate housing, sufficient food, quality education, fair justice and personal security (p. 6).

It follows that good governance is closely associated with existence of democratic governance. Democracy is essential for good governance. Democracy has been a desired phenomenon, a way of self-expression for states, sort of a symbol of civilization and an anchor for many states' establishment, maintenance and future. In its simplest meaning, democracy refers to "a system of government in which the principal positions of political power are filled through regular, free, and fair elections" (Diamond, 2002). In addition to free elections, a democratic platform involves an independent judiciary with a clear and predictable rule of law; an elected parliament that is autonomous and capable of checking and scrutinizing the executive branch of government; and a civil society with the freedom and resources to monitor, evaluate, question, and participate in the making and implementation of policy (Diamond, 2002). In other words, democracy is "a form of government, where a constitution guarantees basic personal and political rights, fair and free elections, and independent courts of law" (Definition of Democracy). In a similar vein, strengthened electoral and legislative systems, improved access to justice and public administration and developed capacity to deliver basic services to those most in need at domestic level would facilitate democratic governance at the international level with civil, political and economic development (UNDP, 2013).



For global democratic governance, democracy needs to prevail within states first. In other words, one state's domestic regime is reflected on foreign policy attitudes and its stance in international arena, so domestic mechanisms are very crucial in the name of adoption and implementation of democracy at the national and international level. In this regard, democracy at home is the foundation of democracy abroad (Barnett M. N., 2010, p. 28). From this perspective, Larry Diamond (2002) indicates that:

Unless states can be made more responsible, competent, efficient, participatory, open, transparent, accountable, lawful, and legitimate in the way they govern, stagnating and poorly performing countries will not experience the kind of vigorous, sustained development that transforms levels of human development and permanently lifts large segments of the population out of poverty. And badly governed states will produce diffuse threats to global (p. 18).

Effective democratic governance is therefore considered to be fundamental for global peace. For example, Boutros Boutros-Ghali (1995), former Secretary-General of the UN, argues that democracy is the ultimate guarantor of peace. He underlines the importance and need of internationalization of democracy and human rights, which complement each other, for an effective governance process (Boutros-Ghali, 1995).

In short, concepts of democracy and good governance are inextricably linked. Democracy gives significant electoral accountability to people via fully free, fair, competitive and neutrally administered elections; it presents a control mechanism on leaders in order to explain and justify their actions; it paves the way for public participation to policy-making process; it creates pressure on public officials in the name of accountability and transparency with the help of public's freedom and institutional means (Diamond, 2002, p. 19). Thus, an effective participation for the governance process could be achieved.

As much as noble and ideal it sounds, good governance remains a challenge. States' conflicting interests, their search for power, economic, social and political differences in their understandings and incompatibility between expectations of international society's actors render good governance at the international level a hard case. In this regard, Michael Edwards (2004) states that "the future of global governance is likely to rest not

on a single system like the UN, but on a new mixture of bottom-up and top-down authority; public, private and civic institutions and informal norms as well as formal laws and standards” (p. 166).

In addition, despite the fact that the ultimate aim is to reach good governance level, goodness of the good governance actors is a contradictive issue, especially with respect to NGOs’ activities. NGOs have an important position in governance process as monitoring governments’ and other public institutions’ activities and assisting poor and vulnerable who suffered the most from the economic difficulties. Sometimes with the pressure from donor agencies, governments have created more space for NGOs to take part in government programs, notably those related to poverty alleviation and at this point, there are some concerns relating to the credibility of this governance process because NGOs are set up by government officials, business people or people aiming for profit to grab government projects financed with overseas loans, as donor agencies require that the projects should be carried out by NGOs. The question is whether NGOs formed and managed by government officials still can be called NGOs because NGOs should not be in any way related to political parties however many political party officials have formed NGOs, and many NGO activists have become party executives (Ibrahim, 2002). Besides, in any NGO, a number of people must voluntarily contribute their views, time and energy, without pay as the founders and members of the advisory board, supervisory board, board of trustees, and board of directors so, they should be differentiated from NGO executives and staff who are professionals and receive salaries (Ibrahim, 2002). But sometimes the board of directors also serves as executives; founders and board members form business enterprises (with funds from their NGOs, aimed at making them less dependent on donors) and later become members of their board of commissioners or board of directors thus, they receive big salaries and dividends (Ibrahim, 2002). Such mechanisms’ credibility is in question.

All in all, global governance is a necessity in order to provide global order. Current global order includes humanitarian concerns because of increasing human-oriented approaches in international relations rhetoric with the aim of making the world a more livable place. Security perception has also changed in this direction. In this context,

human security is a key element for humanitarian order regarding individualistic welfare and improvement.

## **1.2. HUMAN SECURITY**

The concept of security embodies a broad structure within itself and has many dimensions in today's global world. Human security is one of them, which is not a new notion for international relations discourse. In regard to changing security understanding, there arise a necessity for transnational responsibility for human welfare so concepts like human security, human development, human emergency and humanitarian intervention obtained a place in global governance (Hettne, 2002, p. 13).

The post-Cold War period has witnessed the redefining of security due to some developments in international arena. These are relaxation in tensions between the superpowers; increasing economic interdependence's consequences, which could cause an obvious vulnerability to the economic maneuvers of others; military security was not perceived by the Third World as the most urgent security issue (MacFarlane & Khong, 2006, p. 127). Security challenges have also undergone a change in this framework. Extreme economic deprivation, proliferation of conventional small arms, terrorizing of civilian populations by domestic factions and gross violations of human rights have become the main concerns of security (Commission on Global Governance, 1995, p. 79). This reflects progressive technological processes in international economy, which were related to globalization. All these challenges have led to questioning the capacity of states to protect their populations. Acceleration of ideational change as a result of disappearance of bipolar competition in international relations represents a key development for the understanding of human security (MacFarlane & Khong, 2006, p. 263).

Thus, it can be said that there occurred a shift from territorial security to food, employment and environmental security. In this context, currently, human security stands as the combination of seven dimensions of security: economic, food, health, environmental, personal, community and political (UNDP, 1994, p. 24).

### **1.2.1. Key Factors of Enhanced Human Security**

Within perspectives of human security, the referent object of security is the human being and the main aim is to protect fundamental freedoms of humans (MacFarlane & Khong, 2006, p. 245). In this respect, the Commission on Human Security (2003) states:

Human security means protecting fundamental freedoms. It means protecting people from critical and pervasive threats and situations. It means using processes that build on people's strengths and aspirations. It means creating political, social, environmental, economic, military and cultural systems that, when combined, give people the building blocks for survival, livelihood and dignity (p. 4).

Human security is normative, ethical and rests upon self-interested empirical reasoning. According to Newman (2001), there is an ethical responsibility in human security understanding to redefine security around the individual, in the context of changes in political community and the emergence of transnational norms relating to human rights (p. 241). From this perspective, human security requires the attention of all related actors with respect to each other's rights and freedoms. In other words, human security deprivation has a direct impact on peace and stability within and between states in international arena (Newman, 2001, p. 241).

Within the scope of IR discipline, the idea of human security had begun to be developed in international discourse by the early 1990s, especially with the publication of Human Development Report 1994 of UNDP. Other initiatives of the UN in the name of human security included establishment of the United Nations Trust Fund for Human Security and launch of Human Security Network in 1999, gathering of UN Millennium Summit in 2000, designation of Commission on Human Security (CHS) in 2001, launch of the Human Security Now report by the CHS and establishment of the Advisory Board on Human Security in 2003 (United Nations Trust Fund for Human Security, 2007). Among them, Human Development Report should be specifically underlined due to the new dimensions it brought to the concept of human security, which equates security with people rather than territories, with development rather than arms (UNDP, 1994, p. iii).

It is generally argued that, the underlying cause of human insecurity is related to states' unfavorable records of providing security in both domestic and international level. According to Pinar Bilgin (2003), the genocidal activities, the outrageous injustices in the distribution of resources and inefficiencies in dealing with persistent poverty and illiteracy of states indicate that states can be the main enemy of their own citizens' wellbeing, since such conditions decrease people's life expectancies (p. 213). Such undesirable circumstances provoke disturbance in world order. Therefore, international society becomes a part of national security of the states, whether of states or alliances, that want to defend their populations against external threats (Jackson R. H., 1992). In this regard, realization of human security can be seen as a result of collective efforts in international arena.

In this collective effort, representative, stable and responsive institutions are seen as essential elements for human security (MacFarlane & Khong, 2006, p. 160). These institutions should have a comprehensive interaction among them at national and international levels. In this respect, according to Dave Benjamin (2009), human security includes three assumptions, which are "the individual needs to feel secure against poverty and destitution and deserves improving quality of life from education to modes of material well-being; physical security of the person, especially in dealings with the state and its apparatus; an expectation that these elements can result in an end to death and destitution" (p. 47). Thus, maintenance of human security refers to a process of exchange and negotiation that strengthens social networks and paves the way for a more flexible approach to prioritize the needs and aspirations of the state and the community (United Nations Trust Fund for Human Security, 2007).

In this respect, Edward Newman (2001) argues that after the individual has been main focus in international governance and codes of conduct, there has been increasing emphasis on human rights and human needs (p. 241). The fulfillment of basic human needs has become vital for the maintenance of humanitarian order and human security. With respect to this change in attitude, UNDP (1994) Human Development Report states:

For too long, the concept of security has been shaped by the potential for conflict between states. For too long, security has been equated with threats to a country's borders. For too long, nations have sought arms to protect their security. For most people today, a feeling of insecurity arises more from worries about daily life than from the dread of a cataclysmic world event. Job security, income security, health, environmental security, security from crime- these are emerging concerns of human security all over the world (p. 3).

Thus, human welfare is seen fundamental for security (Newman, 2001, p. 243). Within this framework, human security refers to “safety from such chronic threats like hunger, disease, repression etc.; protection from sudden and hurtful disruptions in the patterns of daily life” (UNDP, 1994, p. 23). In order to maintain such human security, UNDP (1994) Human Development Report propounds

the implementation of linking overseas aid to poverty reduction and welfare rather than political allegiance and commercial ties; allocating a certain proportion of existing foreign assistance to the poorest nations as a social safety net for basic welfare needs; establishing a World Social Charter; achieving commitments based upon the ‘peace dividend; establishing a global human security fund to address common threats to human security, based upon international sources of revenue (p. 6).

People-centered approach of human security links physical protection, rights and development to each other (MacFarlane & Khong, 2006, p. 160). Especially at the beginning of the 20<sup>th</sup> century, norms within the system protected individuals in three respects: European attitude for individual rights slowly spread to the rest of the world; norms slowly began to be for groups such as minorities, women and children which were historically excluded in the discourse on political and civil rights; norms rooted in substantive terms from survival to welfare and identity (MacFarlane & Khong, 2006, p. 108). States have increasingly begun to accept various obligations in relation to these areas of concern put forward in a number of declarations, covenants and conventions on human rights and in further elaboration of the laws of war (MacFarlane & Khong, 2006, p. 108). Consequently, there has been a growing consciousness with respect to various problems of human security.

Notwithstanding, human security is not a new concept. The novelty, however is that it is now explicitly on the contemporary international society's agenda. Human security is

conceptualized as “freedom from want” and “freedom from fear” (Newman, 2001, p. 240). As specified in Franklin D. Roosevelt’s (1941) “Four Freedoms” presented to Congress in 1941, freedom from want means “economic understandings which will secure to every nation a healthy peacetime life for its inhabitants anywhere in the world” and freedom from fear refers to “a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor anywhere in the world” (p. 21). According to Human Development Report 1994, there are two aspects of peace, first being freedom from fear and the second is the economic and social development that is freedom from want. The Report argues that “only victory on both fronts can assure the world of an enduring peace” (p. 24). Enhancing stability and security helps to promote freedom from want (MacFarlane & Khong, 2006, p. 161). In the course of events, both of them are necessary for maintaining human security and for providing physical and emotional safety.

After setting out the general framework of the concept of human security, in considering all of its characteristics, human security’s deficiencies and contributions should be introduced in order to understand the concept from an objective perspective. There are advocates of and dissenting approaches to the idea of people-oriented security, instead of a state-centric point of view.

### **1.2.2. Contributions and Shortcomings of the Concept of Human Security**

The field of security in social sciences is a contentious area with respect to implementations. As a subtitle under security, human security is also seen polemical by many scholars and practitioners alike. Human security as a concept is certainly earning a place in international community through the changing global agenda setting and with growing support and interest in time. Nonetheless, human security has pros and cons with respect to its functions and consequences for world society during its adoption process.

To begin with the positive ramifications, first, it is an integrative approach, which brings together a multiplicity of challenges faced by individuals and communities, and recognizes the inter-linkages between security, development and human rights in an inclusive way (United Nations Trust Fund for Human Security, 2007). In this sense, human security foresees a total emancipation of the individual with the help of its multi-dimensional humanistic considerations.

Second, due to its people-centered nature, human security focuses the attention of all actors on finding solutions that help improve the lives of peoples and communities both inside and across borders that indicates its comprehensive structure (United Nations Trust Fund for Human Security, 2007). This type of cooperation among various actors is then supposed to create an environment of confidence.

Third, human security sees all rights (civil, political, economic, social and cultural) equally important so that no human being's survival, livelihood and dignity would be threatened (United Nations Trust Fund for Human Security, 2007). This comprehensive approach to rights strengthens the credibility of the concept for society, since all members of international society demands equality of rights for all.

Fourth, human security involves both protection and empowerment. In this sense, it requires taking responsibility by every part of international society that maintains a reliable control mechanism and sense of interdependence (United Nations Trust Fund for Human Security, 2007). Therefore, it does not allow a dominance of one specific group.

On the other hand, the concept of human security is not devoid of criticisms for human security. There is a deliberate amnesia within human security discourse regarding conflict between states, which potentially poses as a threat to the values the advocates of human security seek to protect. Nonetheless, intrastate war and intrastate violence have caused more victims than interstate war in the twentieth century (MacFarlane & Khong, 2006, p. 239). In this context, Andrew Mack (2002), director of the Centre for Human Security at the University of British Columbia, notes that "in the twentieth century, far



more people died as a consequence of the actions of their own governments than were killed by foreign armies” (p. 4). During the Cold War, it is argued that nuclear powers consciously traded human security for national security (MacFarlane & Khong, 2006, p. 239). Thus, it can be argued that human security is a vulnerable concept and could be shaped in accordance with interests and expectations of actors.

Another criticism of human security is related to its conceptual broadness as a concept. More specifically, human security deals with various issues like hunger, disease, environmental degradation and human rights etc., but it is not easy to prioritize these issues with reference to their seriousness (MacFarlane & Khong, p. 240). Therefore, it creates confusion with regard to characterization of an issue as a problem of human security. In addition, ‘over-securitization of threats’ is seen as a deficiency within human security. Securitization refers to the accepted classification of certain and not other phenomena, persons or entities as existential threats requiring emergency measures by framing a concern as a security issue and by moving from the politicized to the securitized (Emmers, 2007). According to Volker Franke (2002) “securitizing everything from nuclear missiles to miniskirts and pop music (as in the case in the former Soviet Union, Iran, or the Taliban’s Afghanistan) suffocates civil society, jeopardizes democracy, and creates coercive states whose only legitimacy stems from countering increasing security threats” (p. 12). From this perspective, the issues of human security should be analyzed carefully with respect to their cause and effect relations, as the concept is open to creating artificial agenda. Focal point could be easily changed, and thus fundamental point would be missed.

In conclusion, together with the contributions of liberal understanding to IR discipline such as the inclusion of non-state actors and enhanced cooperation among states and non-state actors to deal with world problems, global governance approach has become a necessary tool for maintenance of international humanitarian order. This governance process has been dedicated to humanitarian practices because of increasing moral values within world system. Thus, humanitarian concerns are one of the most important topics in the current world affairs’ agenda. Therefore, it can be said that today, the main goal of governance is about the maintenance of humanitarian order.

## **CHAPTER 2**

### **INTERNATIONAL HUMANITARIAN ORDER AND THE UNITED NATIONS**

Humanitarian affairs have gained importance with the inclusion of human-based approaches in IR literature. The maintenance of international humanitarian order is directly related with humanitarian affairs. The attention to maintenance of humanitarian order increased after the end of the Cold War with the aim of protection of populations. In this context, the UN is one of the leading actors in the maintenance of humanitarian order process regarding its capabilities in international arena.

#### **2.1. THE CONCEPT OF ORDER**

In IR literature, the concept of order refers to “a stable pattern of relations among international actors that sustain a set of common goals or purposes” (Griffiths & O’Callaghan, 2002, p. 223). Some scholars tend to equate order with peace. However, order does not necessarily amount to peaceful relations (Lascurettes, 2011, p. 3).

As Griffiths and O’Callaghan (2002) note, the existence of order depends on two conditions: the actors must tacitly agree to abide by certain uniform practices that preserve the international system as a whole and armed conflict must not be so pervasive as to undermine the integrity of the system (p. 223). One of the most important objectives of the concept of order is peaceful coexistence. However this does not mean existence of order is sufficient to provide a peaceful environment by itself. In this respect, Richard Ned Lebow (2008) says “order does not prevent war but regulates it and keeps it within bounds” (p. 559). In its basic sense, order refers to a pattern of equilibrium-perpetuating behavior among the units of a system (Lascurettes, 2011, p. 3). This definition is a systemic one. From the global governance perspective, order maintains this equilibrium through common ideas, norms and cooperation.

At the state level, from past to present, the concept of order has been very important in the sense of living a community life. As Xueting (2011) cites from Xunzi,

The life of human beings cannot be without communities. If there are communities without distinctions, then there will be conflicts, then disorder, then poverty” (p. 239).

Order can be seen as a means for societies to constitute their own social, economic and political structures. However, at the international level, it has been very difficult for people with different cultures, habits and backgrounds to create a common life and have a sense of order. It is already challenging to establish order within one society given the diversities it may contain. It is much more difficult to institute world order within international society because numerous states with various social, political, cultural, and economic structures are present.

In addition, order is a multi-faceted concept. It includes economic, political, social and cultural dimensions. In the widest sense, harmony of such various components constitutes essence of the concept of order. The communication among them provides a base for settled order. According to Georg Simmerl (2011), order denotes a patterned stability of social relations in contrast to chaos and it is established and preserved “by re-articulating a specific type of communication while preventing competing communications from gaining currency” (p. 8). The main point in the issue of order is about meeting halfway in regard to expectations and needs of international society actors with the help of shared understanding.

According to Hedley Bull (2002), order refers to “an agreement of social life that promotes certain goals and values” (p. 4). In this understanding, there are three essential goals that needed to be attained in order to provide the basis for the coexistence of people:

All societies seek to ensure that life will be in some measure secure against violence resulting in death or bodily harm; all societies seek to ensure that promises, once made, will be kept, or that agreements, once undertaken, will be carried out; all societies pursue the goal of ensuring that the possession of things

will remain stable to some degree and will not be subject to challenges that are constant and without limit (Bull, 2002, p. 4).

In international society, order can be seen as the consequence of a sense of common interests in the elementary goals of social life; rules prescribing behavior that sustains these goals; and institutions that help to make these rules effective (Bull, 2002, p. 63).

The composition of shared understanding requires similarities in expectations and interests in great numbers of issues among the members of a society, which would in turn lead to the maintenance of order. This formulation could also be applied to the systemic level. From this perspective, world order is the combination of stable shared understandings of expectations, and behavior among main actors (Simmerl, 2011, p. 8). It rather denotes peaceful coexistence among diversity of views and values. In terms of global governance, it is essential to have similar approaches among individuals, states, nongovernmental organizations and civil society in relation to world affairs. However, this may not be attainable at all times since conflicts of interests, desire for power, uses of force, and disparities in attitudes of actors could cause disorder and disturbance in international society.

## **2.2. INTERNATIONAL HUMANITARIAN ORDER**

International humanitarian order is defined as “a complex of norms, informal institutions, laws and discourses that legitimate and compel various kinds of interventions by state and non-state actors with the explicit goal of preserving and protecting human life” (Barnett, 2010, p. i). Fundamentally, international humanitarian order is concerned with the protection of those in immediate peril and the prevention of unnecessary suffering (Barnett, 2010, p. 1). In other words, it requires ensuring fundamental security, wellbeing and justice for all citizens of world society. Ensuring wellbeing comprises the access to necessities, including food, health services, education and employment (MacFarlane & Khong, 2006, p. 151). All these are assumed to be the basic human needs of people and necessary for living a quality life as a human being in an interdependent world society.

The method of implementation is so crucial and contentious when it comes to humanitarian issues. From this point of view, normative structure of international humanitarian order depends on international human rights as well as humanitarian and refugee law in today's world (Barnett, 2010, p. 1). This legal side of international humanitarian order strengthens its efficiency and credibility.

Another structural component of humanitarian order is related to its implementing agencies, which are nongovernmental organizations such as Doctors without Borders (*Médecins Sans Frontières*), the International Committee of the Red Cross, CARE International, Oxfam etc., and international institutions (Barnett, 2010, p. 1). In terms of international organizations, the most important implementing agency can be argued to be the UN and its subsidiary initiatives such as World Food Programme (WFP), UN peacekeeping, and the UN High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), and the World Health Organization (WHO) (Barnett, 2010, p. 2). States can also be counted as crucial actors in the process of maintaining humanitarian order given their contributions to delivering aids to needy people; their military capabilities in peacekeeping operations and their role in protecting civilians during emergencies. Barnett (2010) also adds the existence of private sector as an actor in international humanitarian order. In this respect, the demonstrations of corporations represent a social responsibility which raises awareness for the wellbeing of people. Also, they can function as important actors in international humanitarian order by integrating welfare concern into their profit-oriented strategies (p. 2). The functionality of international humanitarian order depends upon interaction between all these actors based on respect and pursuit of common values.

The main assumption behind the idea of maintenance of international humanitarian order is that there are weak members and strong members in international community with respect to their economic, social, political capacities and performances. From the perspective of governance of international humanitarian order, the strong members are expected to take responsibility and assist the weak ones whenever necessary, so that, there would be an adequate and fair international response to unfavorable and corruptive situations within international society. According to William Edwards (2004), this

international response to ‘complex political emergencies’ rests on a combination of three factors: long-term peace building, developmental relief, international political action to address the external causes of insecurity and, intervention with sufficient force at the right time (p. 225). In this context, intervention for the maintenance of international humanitarian order, coercive or not, should provide a long-term wellbeing and should be constructive in social, political and economic terms in contrast to arbitrary interferences.

Needless to say, the concept of humanitarian order is related with the concept of humanitarianism but they are not synonymous. Humanitarianism is significant for international relations and is seen as a precondition to be accepted as a ‘civilized’ society. Although it is not a new phenomenon, it has become more important with the increase of individual-oriented discourses rather than state-centric approaches. Humanitarianism exists in an envisioned community in which all individuals are of equal worth and, thus, deserve assistance if in need (Aaltola, 2009, p. 8). Humanitarianism is concerned with the assistance required in the context of disasters. Thus, it is most readily applied to emergency relief and post-conflict recovery. However, international humanitarian order involves other professional fields and communities of practice such as human rights, development, and public health (Barnett, 2010, p. 2).

The concept of international humanitarian order is different from previous implementations that are also human-based (acts of compassion) due to its self-conscious and explicit character that comprises contributions of the states and non-state actors to create international mechanisms to reduce suffering and improve human welfare through establishment of international refugee and human rights regimes, ban of landmines, creation of campaigns to improve global health, and fight with global poverty (Barnett, 2010, p. 1). It is a collective act to make the world more livable place. Achieving international humanitarian order is also closely associated with the maintenance of human security. In other words, the two concepts are closely related. Generally, existence of human security is considered as a precondition for the international humanitarian order.

### **2.2.1. Human Development Report 1994**

Human Development Report 1994 of UNDP was presented to international community with the aim of contributing to the maintenance of world order. It put forward the UN's understanding of human development, and broadened the meaning of security (MacFarlane & Khong, 2006, p. 226). Through this Report, the state-centric security understanding gave way to people-oriented security approach, thus, in the context of security, it can be said that human security as opposed to state security was launched in this report (Hettne, 2002, p. 13).

This report is distinctive, as it shifted the focus of the concept of security to people and highlighted non-traditional threats (MacFarlane & Khong, 2006, p. 164). The report enumerated new forms of threats as “unchecked population growth, disparities in economic opportunities, excessive international migration, environmental degradation, drug production and trafficking and international terrorism”, which could be eliminated by global efforts and by new kinds of responses (UNDP, 1994, p. 34). According to MacFarlane (2006), the timing of this report is also important: “not only did the end of the Cold War afford more room for a people-centered approach but the events of the early 1990s seemed to reinforce the salience of many of the non-traditional insecurities” (p. 226). Events like the collapse of the Soviet Union in 1991 which gave way to emergence of new states, genocide in Rwanda in 1994, the Bosnian War between 1992-1995 all had impact on the international community and affected the creation of an international public opinion more sensitive to the protection of humans against suffering.

### **2.2.2. A General Evaluation of Human Development Report**

The report made four points concerning the need to move away from a national security approach towards human security. In other words, the idea of human security has four essential characteristics. First of all, human security is people-centered. That is concerned with how people live and breathe in a society; how freely they exercise their choices; how much access they have to the market and social opportunities; whether

they live in conflict or in peace. Human security is also a universal concern that is relevant to people everywhere, regardless of their wellbeing (UNDP, 1994, p. 22). In this regard, according to Pinar Bilgin (2003), “the process of globalization has created a third world within the first world as well as a first world within the third world” (p. 214). Secondly, the components of human security are interdependent. Thus, “severe threats to human security are not confined to single communities; although the intensity of some threats varies such as unemployment, drugs, crime, pollution and human rights violations, they are threats to all” (UNDP, 1994, p. 22). In other words, “distress in one part of the world is likely to affect other parts of the world” (Bilgin, 2003, p. 214). Thirdly, “human security is relatively easier to ensure through early prevention” (UNDP, 1994, p. 22). More specifically, human security is best achieved through prevention rather than intervention after the crisis occurred and backfired (Bilgin, 2003, p. 214). Fourthly and maybe the most importantly, people should be the referent object of security, rather than the states (Bilgin, 2003, p. 214). This point emphasizes that ensuring human security does not mean taking away from people the responsibility and opportunity for mastering their lives (UNDP, 1994, p. 24).

Human security has had ever increasing importance in the world stage. The maintenance of world order and world peace has become important aims in the world politics. As Human Development Report issues, there is a direct proportion between individuals having security in their own lives in addition to the predominance of internal war for the contemporary international system and the causes of such war in socioeconomic conditions (UNDP, 1994). In this respect, initiatives by the UN and the end of the Cold War could be seen as milestones for the governance of international humanitarian order. Thus, changing dynamics in international arena unequivocally affected international humanitarian order and its governance. In this vein, Michael Barnett (2010) states:

Whereas during the Cold War the general view was that international order could be stabilized through deterrence and the military balance of power, with reinforcing braces from an austere interpretation of sovereignty, after the Cold War an emerging view was that international peace and security was best founded on states that had domestic legitimacy, in turn, depended on the trifecta of democracy, markets and rights (p. 8).



### **2.3. THE UNITED NATIONS AND INTERNATIONAL HUMANITARIAN ORDER**

In 1945, the UN was created to prevent catastrophic events like world wars in and “to save successive generations from the scourge of war”. However, currently threat and security perception has gone far beyond state security and rather concerned with aggressive wars which result in poverty, infectious disease, environmental degradation, as well as war and violence within states, the spread and possible use of nuclear, radiological, chemical and biological weapons, terrorism, transnational organized crime (MacFarlane & Khong, 2006, p. 261). Thus, the UN has preserved its significance in the framework of the governance of international humanitarian order since its establishment with time-varying methods.

The UN can be considered as the most prominent international organization of today’s world. Its multifaceted agenda and influential stance in global affairs make the UN different among other international organizations. According to Bookmiller (2008), “it is the only intergovernmental organization in the world today that is both international in membership and dedicated to responding through one organization to all of the global community’s challenges” (p. 12). For this reason, the UN is considered to be a significant and necessary actor for world order.

When the world witnessed two catastrophic world wars and concomitant unbalanced international system, the UN had to serve an important purpose: to preserve global peace and security. After two years from the outbreak of the Second World War, Churchill and Roosevelt issued the “Atlantic Charter” in order to set out their war aims, which included peace, freedom, collaboration and security between states and a wider and permanent system of general security in addition to the defeat of Nazi Germany (Griffiths & O’Callaghan, 2002, p. 316). This Charter contained the seeds of the UN and the UN was founded on 24 October 1945 and its purposes are:

to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for

the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace; to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace; to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and to be a centre for harmonizing the actions of nations in the attainment of these common ends with participation of 51 countries (The United Nations, Chapter I, Article 1, 1945).

The UN has made a significant progress in regulation of interstate relations and witnessed a remarkable enlargement process. Currently, the UN has 193 member states and thus can be considered to be the only universal international organization (The United Nations, 2013).

Undertaking collective actions in order to provide peace and security remains to be its principle way for dealing with international issues. Within these collective actions, great powers' roles and responsibilities are considerable. As stated in the Report of the Secretary-General's High-level Panel on Threats, Challenges and Change, "the Charter of the UN provided the most powerful States with permanent membership on the Security Council and the veto. In exchange, they were expected to use their power for the common good and promote and obey international law" (The United Nations, 2004, p. 77).

Fundamental principles of the UN comprise the equality of all its members, good faith on the part of its members in fulfilling Charter obligations, settlement of international disputes by peaceful means and without endangering international peace and security and justice, members' commitment to refrain from the threat or use of force against any other state, members' commitment to give the UN every assistance in any action it takes in accordance with the Charter, non-intervention in matters which are essentially within the domestic jurisdiction of any state (The United Nations, 2004, p. 5).

With the changing dynamics of international arena, especially after the growing threat of nuclear war and regional conflicts, the need for a strong world organization to establish a peaceful world order had increased and as a result, UN actions like peacekeeping, peacebuilding, humanitarian assistance have become means for the preservation of the world order. For instance, there are currently more than 100,000 UN peacekeepers in 16 peace operations (The United Nations, 2013). Through these activities, the UN has emerged as a vigorous actor in international governance with its involvement in international affairs and direct impact on interstate relations through its main bodies, which are the General Assembly, the Security Council, the Economic and Social Council, Trusteeship Council, International Court of Justice, Secretariat and other bodies and committees.

It can be argued that the UN's establishment has made a difference for international society. The UN has succeeded in many subjects such as "supporting self-determination and decolonization, the dismantlement of apartheid, the invention of peacekeeping, its promotion and protection of universal human rights, the control or eradication of infectious diseases, the humanitarian relief it provides to millions displaced by man-made or natural catastrophes" (Fomerand, 2009, p. iv). On the other hand, it has been criticized not only because of its controversial decisions but also due to "the paralysis of the Security Council stymied by an abusive use of the 'veto' throughout the Cold War, the intractable issues of Palestine, Kashmir, Cyprus, and western Sahara, the ignominious hands-off posture in the 1975–1978 and 1994 genocides in Cambodia and Rwanda; the abrupt withdrawal from Somalia in 1993, the massacre of thousands in Srebrenica, after the Council had declared the town a 'safe area' in 1995" (Fomerand, 2009, p. iv).

Eventually, the UN is considered to be much more than a peacekeeper and a forum for conflict resolution (Stewart, 2008, p. 90). It extended its sphere of influence all over the world concerning issues like "child survival and development, environmental protection, human rights, health and medical research, alleviation of poverty and economic development, agricultural development and fisheries, education, family planning, emergency and disaster relief, air and sea travel, peaceful uses of atomic

energy, labor and workers' rights etc.” (Stewart, 2008, p. 90).

According to Fomerand (2009), the UN is a platform in which sovereign national governments clash and try to reconcile their differences and its ability to be active is determined by the constraints and possibilities posed by its members' willingness to cooperate and compromise and the evolving international environment (p. vi). Nevertheless, there exists a consensus among observers that the UN remains the only international organization that approximates a form of global governance (Griffiths & O'Callaghan, 2002, p. 320).

### **2.3.1. Responsibility to Protect**

The end of the Cold War brought along many changes in international politics. The maintenance of order has become essential, yet at the same time, remained to be a difficult objective for sovereign states. In this regard, protection of populations has gained considerable significance in international agenda. The protection of peoples has come to be perceived as a new international security and human rights norm to redress international community's failure to prevent and stop genocides, war crimes, ethnic cleansing and crimes against humanity (ICRtoP, 2013). With the increase of internal conflicts and continuous attacks against civilians within states, a significant dilemma arose: “should outside forces intervene in the internal affairs of a state when the civilian population is suffering massive violations of human rights and the state is unable or unwilling to fulfill its responsibility to protect its own people?” (Cremades, 2011).

Regarding these concerns, the scope of the Responsibility to Protect (R2P or RtoP) is determined in 2005 World Summit Outcome Document of the UN General Assembly, within the section IV Human rights and the rule of law (United Nations General Assembly, 2005). Paragraphs 138 and 139 explain the scope of responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity as:

... Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability (United Nations General Assembly, para. 138, 2005).

... The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out (United Nations General Assembly, para. 139, 2005).

As such, R2P suggests that as a part of sovereignty, states have the responsibility for the protection of their people. However, every state does not have the same capability or the same desire to protect its people from suffering in various given the disparities in their structural, economic and social resources. According to Mertus (2009), “states do not have an unqualified right to non-intervention by other states, but rather the right is conditioned on the state meeting its own responsibility to protect its citizenry (p. 108). When a state becomes insufficient in protection of its people, international community takes the lead in order to help the needy ones. In this framework, a state’s failure to protect its own citizens would be seen, as the entire world’s concern (Cremades, 2011).

The principle of R2P is a consequence of a shift within international society in the security understanding as from the security of states to the security of individuals (Mertus, 2009, p. 108). According to International Commission on Intervention and State Sovereignty (ICISS) (2001), “where a population is suffering serious harm, as a

result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international R2P” (p. XI). The concept is found on “obligations inherent in the concept of sovereignty; the responsibility of the Security Council, under Article 24 of the UN Charter, for the maintenance of international peace and security; specific legal obligations under human rights and human protection declarations, covenants and treaties, international humanitarian law and national law; the developing practice of states, regional organizations and the Security Council itself” (ICISS, 2001, p. XI).

The responsibility to protect includes three main responsibilities:

*Responsibility to prevent* that refers to address both the root causes and direct causes of internal conflict and other man-made crises putting populations at risk; *responsibility to react* that refers to respond to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention; *responsibility to rebuild* that refers to provide, especially after a military intervention, full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert (ICISS, 2001, p. XI).

In the concept of R2P, prevention is highly significant. The main purpose the responsibility to protect is not only the determination of crises and reactions against them, but also prevention of them. From an ethical perspective, non-coercive measures should be implemented during the prevention process. In this context, military intervention should be the ultimate remedy. Above all, there should be just causes for such an intervention (*just war*). In other words, there should be serious threats to a population’s welfare. Otherwise, it would be an intervention in a state’s domestic affairs. In order to justify a military intervention to a state, there must be a large scale of loss of life or a large scale of ethnic cleansing (ICISS, 2001, p. XII).

There are some other requirements to practice a military intervention. In this framework, military intervention should be based on *right intentions*, which means that military intervention must be carried out with the intention of stopping human suffering (ICISS, 2001, p. XII). Further, this intervention should be the *last resort*, which means

every non-military option must be used before the military intervention. There is also a *right authority* criterion for a military intervention that refers to involvement of the UN or its bodies (approval of the Security Council or General Assembly) (Mertus, 2009, p. 110). Another important component for a military intervention is the use of *proportional means*. That means the scale, duration and intensity of an intervention should be proportionate to the humanitarian objective (Mertus, 2009, p. 110).

On the other hand, according to Bellamy (2009), there are some structural problems within the principle of responsibility to protect: the concept's emphasis is too broad in order to focus on mass atrocity crimes and the lack of limits on costs can be seen as a disincentive to states to underwrite the program (p. 99). In addition to them, Cremades (2011) indicates that difficulties of R2P come from traditional tension between protection obligations which are rooted in international law and traditional perceptions of security, which are linked to the principles of state sovereignty and non-interference. In the principle of R2P, it is hard to balance the ethical side and rational side.

### **2.3.2. Tools for International Humanitarian Order**

There are too many issues and actors within the governance of international humanitarian order. Humanitarian affairs could be seen as the main concern of the UN. The UN has various mechanisms in the framework of humanitarian affairs as demining, early warning and disaster risk reduction, global food security, humanitarian response coordination, human settlement, sanctions, displacement, protection of civilians in armed conflict.

#### **2.3.2.1. Demining**

The UN aims to create a safe world, which shall be free of the threat of landmines and explosive remnants of war (United Nations Mine Action Services [UNMAS], 2013). In this respect, coordination between the UN agencies has become crucial. In demining process, UN Department of Peacekeeping Operations (DPKO) (by integrating mine action into worldwide UN peacekeeping operations), Mine Action Services (UNMAS)

(by ensuring an effective, proactive and coordinated UN response to landmines and explosive remnants of war), United Nations Office for Disarmament Affairs (UNODA) (by promoting universal participation in international legal frameworks on landmines and explosive remnants of war and assisting countries in complying with their treaty obligations), UNDP (by assisting mine-affected countries to establish or strengthen national and local mine action programmes), UNICEF (by supporting the development and implementation of mine risk education and survivor assistance projects and advocacy for an end to the use of landmines, cluster munitions and other indiscriminate weapons) and United Nations Office for Project Services (UNOPS) (by offering project management and logistics services for projects and programmes managed or funded by the UN, international financial institutions, regional and sub-regional development banks or host governments) are main partners (UN Mine Action Gateway, 2013).

In this respect there are five aspects of demining, which are clearance, education, victim assistance, advocacy and stockpile destruction. Considering these aspects, for instance, Mine Risk Education was provided in 57 states with the aim of reducing the risk of injury from mines and unexploded ordnance by raising awareness and promoting behavioral change through public-information campaigns, education and training, and liaison with communities as teacher-to-child education in schools, information shared at home from parents to children or from children to their parents, child-to-child education, peer-to-peer education in work and recreational environments, landmine safety training for humanitarian aid workers and the incorporation of landmine safety messages in occupational health and safety practices (UN Mine Action Gateway, 2013).

#### 2.3.2.2. Early Warning and Disaster Risk Reduction

Disaster Risk Reduction (DRR) seeks to reduce the damage caused by natural hazards like earthquakes, floods, droughts and cyclones, via an ethic of prevention (United Nations Office for Disaster Risk Reduction [UNISDR], 2013). UNISDR is a body under the umbrella of the UN with the aim of the coordination of disaster risk reduction and ensuring synergies among disaster risk reduction activities (UNISDR, 2013). In this context, Hyogo Framework for Action (HFA) was adopted in 2005 as a 10-year plan to



make the world safer from natural hazards with some priorities such as:

- to ensure that disaster risk reduction is a national and a local priority with a strong institutional basis for implementation
- to identify, assess and monitor disaster risks and enhance early warning
- to use knowledge, innovation and education to build a culture of safety and resilience at all levels
- to reduce the underlying risk factors
- to strengthen disaster preparedness for effective response at all levels (UNISDR, 2013).

As an example of early warning and disaster risk reduction practices, *Making Cities Resilient: My City is Getting Ready* campaign could be mentioned. The Campaign, which was launched in May 2010 and will be carried on beyond 2015, addresses issues of local governance and urban risk. With the help of guidelines and toolkits for local governments, urban risk reduction provides opportunities for capital investments through infrastructure upgrades and improvements, building retrofits for energy efficiency and safety, urban renovation and renewal, cleaner energies, and slum upgrading (UNISDR, 2013).

### 2.3.2.3. Global Food Security

World Food Security is enabled with contributions of Committee on World Food Security (CFS). CFS exists as a forum for review and monitoring of food security policies, in which all viewpoints to be considered when deciding on concrete actions to address issues affecting food security and nutrition such as the economic crisis and the rising demand for food (Food and Agriculture Organization of the United Nations [FAO], 2013). The aim of the GFS is to provide coordination and guide synchronized action in support of global, regional and country-led actions to prevent future food crises, eliminate hunger and ensure food security and nutrition for all human beings, while emphasizing the central role of country ownership of programmes to combat food insecurity and malnutrition (FAO, 2013). The GFS could be seen as a tool for policymakers and decision-makers in donor countries and development agencies responsible for development cooperation programmes (FAO, 2013).

As an initiative with respect to the maintenance of global food security, a High-Level Task Force (HLTF) on the Global Food Security Crisis was established in April 2008, by the UN Chief Executives Board because of the dramatic rise of global food prices and the crisis it triggered. HLTF aims to promote a comprehensive and unified response to the challenge of achieving global food security along the lines of its Comprehensive Framework for Action (CFA), which outlines activities related to meeting the immediate needs as well as activities related to the longer-term structural needs, focusing on smallholders, and enabling them to realize their right to food, sustain an increase income and ensure adequate nutrition (United Nations, 2011).

#### 2.3.2.4. Humanitarian Response Coordination

Humanitarian response coordination is ensured through the Inter-Agency Standing Committee (IASC), which appears as a forum for coordination, policy development and decision-making with the key UN and non-UN humanitarian partners (IASC, 2013). Main principles of the Committee include: developing and agreeing on system-wide humanitarian policies, allocating responsibilities among agencies in humanitarian programme, developing and agreeing on a common ethical framework for all humanitarian activities, advocating for common humanitarian principles to parties outside the IASC, identifying areas where gaps in mandates or lack of operational capacity exist and resolving disputes or disagreement about and between humanitarian agencies on system-wide humanitarian issues (IASC, 2013).

#### 2.3.2.5. Human Settlement

The United Nations Human Settlements Programme, UN-HABITAT, which is a UN agency for human settlements, exists in order to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all (UN-HABITAT, 2013). UN-HABITAT expects knowledge management, settlements financing, and strategic partnerships at the national and local level from governments. In this regard, UN-HABITAT contributes to the overall objective of the UN system to reduce poverty and promote sustainable development. According to UN-HABITAT

perspective, cities host much of national production and consumption, which are economic processes by generating wealth and opportunity. On the other hand, most cities in developing countries have little or no access to shelter, water, and sanitation, education or health services. In this regard, it is important to provide sustainable urbanization to create better living standards for all human beings in order to fight disease, crime, pollution, poverty and social unrest (UN-HABITAT, 2013). In this direction, UN-HABITAT has developed a strategy with the goal of *Cities without Slums* including advocacy of global norms, analysis of information, field-testing of solutions and financing. These are included by the four core functions assigned to the agency by world governments: monitoring and research, policy development, capacity building and financing for housing, and urban development (UN-HABITAT, 2013).

#### 2.3.2.6. Impact of Sanctions

In the context of maintaining international peace and security, sanctions are significant tools (Bessler, Garfield, & McHugh, 2004, p. iii). Arms embargoes, financial sanctions, travel-related sanctions and targeted trade sanctions are kinds of sanctions that are most frequently imposed to some states with the intent of changing their undesirable attitudes in international arena.

Arms embargoes have no direct negative humanitarian impacts. They may cause decreased employment for soldiers and those working in defense production industries, thus resulting in reduced purchasing power for them. However, the indirect effects may be important, as governments may devote larger amounts of scarce foreign exchange and administrative effort to acquire banned weapons so resources available for other governmental functions such as education, health services and the maintenance of essential infrastructure would decrease. On the other hand, reduced spending on weapons could contribute to both improved governance and increased social spending, or overthrow of a regime. There may also be significant positive humanitarian impacts of the arms embargo in where “an arms embargo may reduce the ability of one or more parties to a conflict to sustain their fighting, or reduce the ability of an oppressive regime to harm civilians” (Bessler, Garfield, & McHugh, 2004, p. 64).

Financial sanctions may cause to make credit scarce, to increase inflation and to decrease trade. Each result would have a negative effect on employment and increase the cost of goods. Financial sanctions may indirectly constrain trade by nature of the impact on currencies used in particular trade sectors (Bessler, Garfield, & McHugh, 2004, p. 64). Generally, financial sanctions have remarkable deterrence for states in their inter-state relations.

Travel-related sanctions are likely to have few impacts on the general population. Only if such bans interrupt trade or create a more unfavorable environment for investment or trade would they reduce employment, decrease the importation of key goods or stimulate inflation. One possible, and limited, area where aviation or shipping bans can have humanitarian implications is in situations where these modes of transportation are used to deliver medical goods/supplies or to provide access to medical care inside or outside the targeted region and where other modes of transport cannot be used (Bessler, Garfield, & McHugh, 2004, p. 64).

Trade sanctions have an impact on humanitarian conditions. By reducing or eliminating activity in a particular economic sector, a trade sanction is likely to reduce employment in that sector greatly, thus reducing the buying power of those employees and their dependents, which creates a multiplier effect on other economic sectors that provide goods and services. An additional indirect effect could be the impact on the general business environment of the country. Commercial funds may become inaccessible, insurance and transport costs of other industries may go up, and inflation can rise. If these things occur, the purchasing power and availability of employment throughout the country will likely decline, further contributing to worsening conditions of life for many people not directly related to the industry in question (Bessler, Garfield, & McHugh, 2004, p. 65).

#### 2.3.2.7. Displacement

In the situations of conflict or natural disasters, people are forced to leave their country but who remains within their own country's borders are named as internally displaced

persons (IDPs) (Office for the Coordination of Humanitarian Affairs [OCHA], 2013). Today, more than 27 million people are internally displaced by conflict. Generally, host states have the primary responsibility for IDP protection and welfare, in this context, if unwilling or unable to meet IDP needs, international humanitarian actors may complement the national authorities' efforts at the latter's request (OCHA, 2013). In 2004, Guiding Principles on Internal Displacement was presented by OCHA with the purpose of providing protection against arbitrary displacement, offering a basis for protection and assistance during displacement and setting forth guarantees for safe return, resettlement and reintegration (OCHA, 2004). According to some of these principles:

IDP shall enjoy, in full equality, the same rights and freedoms without discrimination under international and domestic law as do other persons in their country; certain IDP such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and their special needs; displacement shall last no longer than required by the circumstances; displacement shall not be carried out by violation of the rights to life, dignity, liberty and security of those affected; authorities shall ensure proper accommodation to the displaced persons; IDP shall be protected in particular against genocide, murder, summary or arbitrary execution, enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death; humanitarian assistance to IDP shall not be diverted, in particular for political and military reasons (OCHA, 2004).

#### 2.3.2.8. Protection of Civilians in Armed Conflict

In general, under the title of humanitarian concerns, protection refers to protection of civilians in armed conflict (POC), in which all parties to the conflict are responsible for ensuring respect and protection towards the civilian population (OCHA, 2013). In this framework, protection includes activities with the aim of obtaining full respect for the rights of all individuals in accordance with international law (international humanitarian, human rights, and refugee law) regardless of their age, gender, social ethnic, national, religious, or other background (OCHA, 2013). From this perspective, the protection of civilians is intended to prevent some undesired and critical situations, including:

the deliberate killing of civilians; attacks against civilian objects such as schools and health-care facilities; impeded provision of humanitarian assistance; sexual violence; forced disappearance; torture or other cruel, inhuman or degrading treatment; the recruitment and use of children; attacks against journalists and human rights activists; and a failure to hold accountable those who perpetrate or instigate violations and to provide support, justice and redress to victims (UN Security Council, 2012, p. 2).

In this regard, international humanitarian law demands parties to conflict to spare the civilian population from the effects of hostilities (UN Security Council, 2012, p. 8). Sparing civilians from the effects of hostilities includes compliance by parties to conflict with international humanitarian law and, especially the principles of distinction and proportionality. It refers parties to take all feasible precautions both in attacking and in defending. In addition, under no circumstances do violations of these rules by one party justify violations by any other party (UN Security Council, 2012, p. 8).

All in all, it can be concluded that the role of the UN in the governance of international humanitarian order is essential. Its various activities in the name of governance include many dimensions. Arguably, the most important and most controversial one is related to the field of human rights. Human rights issue is quite delicate and conspicuous in international arena. The subject's moral and ethical rhetoric appeals to international community. In this context, human rights perception in general and the UN's attitude in human rights framework are considerable matters.

## **CHAPTER 3**

### **THE UNITED NATIONS AND HUMAN RIGHTS**

Human rights issue is a considerable part of contemporary global moral order by referring universal and inalienable rights of human dignity. Until today, international arena has witnessed changing and improved understandings towards human rights. Current International Relations discipline requires an absolute commitment to the protection and promotion of human rights. In this respect, the aim of protection and promotion of human rights is so essential for the governance of international humanitarian order. In order to achieve this goal, the UN makes significant contributions to the development of human rights idea through its comprehensive human rights regime by creating common standards and approaches. The development of human rights issue and the UN's role within this development process is necessary to examine.

#### **3.1. A GENERAL BACKGROUND FOR HUMAN RIGHTS**

At present, governance of international humanitarian order is considerably related with moral and ethical concerns. To maintain global moral order is perceived as an ultimate goal to prevent social unrests in the framework of humanitarian order. In this respect, the issue of human rights is quite critical and noteworthy for inter-state relations and global well-being. In parallel with the coming into prominence of the individual in domestic and global politics, now, modern world is aware of the fact that morality and humanity are necessary requirements for an effective global order. Hence, there is no question regarding the essential role of human rights. Nonetheless, both the concept of human rights and their protection have been matters of controversy in the international arena.

In general, human rights are accepted to be the rights “to which people are entitled by virtue of being human” (Heywood, 2011, p. 304). Every human being has these innate

rights throughout his/her entire life. Within the framework of these rights, there could be no discrimination about language, religion, race, sex, etc. all over the world. In this respect, human rights are perceived internationally agreed standards, which apply to all human beings (Office of the High Commissioner for Human Rights; World Health Organization, 2008, p. 5). The value of human rights also stems from the humanity itself, which is an accumulation of self-contained, sovereign individuals (Normand & Zaidi, 2008, p. 16).

Human rights have a political, institutional and socioeconomic history (Senarclens, 2003, p. 138). The idea of having innate rights is not a new phenomenon. However, because of its dynamic structure, there have been changing perceptions regarding these rights. Primitive version of modern human rights understanding was developed in early modern Europe as 'natural rights', which were seen as God-given and as core of human nature by leading a truly human existence (Heywood, 2011, p. 304). The concept continued to develop within the scope of philosophy, which was related to man and society during the eighteenth century (Senarclens, 2003, p. 138). Then, the concept of 'rights of man' appeared at the end of the eighteenth century in order to constrain government power with a kind of autonomy of the citizen (Heywood, 2011, p. 304). Consequently, 1776 the US Declaration of Independence and 1789 the French Declaration of the Rights of Man and of the Citizen declared life, liberty and the pursuit of happiness as inalienable rights (Heywood, 2011, p. 304). The term, 'human rights' was begun to be used at the end of the eighteenth century, but it was not until the middle of the twentieth century that it became an international issue (Griffin, 2008, p. 9).

In the twentieth century, people and states did not know how they could exercise and protect these rights. Nevertheless, the catastrophic two world wars together with the dynamics of international arena affected human rights perspective. Namely, inter-state and intrastate conflicts caused the prioritization of individualistic values over statist values. After World War I, the means for promotion and protection of human rights remained suspended and the governments could not simply reach a consensus on standards regarding state's treatment of its citizens (Bookmiller, 2008, p. 95). However, as Richard Falk (2008) indicates, as the post-World War I uncertainty and anxiety came



to an end, there occurred an awareness about the fact that “upholding human rights is connected with international stability” (p. xv). In other words, it was recognized that better life circumstances in domestic society would help to decrease armed conflicts between states (Falk, 2008, p. xv).

In the framework of historical background, the seeds of the concept of individual as a rights holder in international law, which were planted at the Hague Conference, could not be accomplished until World War II (Normand & Zaidi, 2008, p. 47). With the start of World War II and in response to the ideological challenge of fascism, human rights were perceived as a distinct and coherent set of ideas (Normand & Zaidi, 2008, p. 27) so the World War II created an atmosphere in which people wanted an end to wars, massacres and oppressions (Normand & Zaidi, 2008, p. 3). As a result, after the World War II, both state and non-state actors made an effort about the promotion of rights together (Simmons, 2009, p. 23). With the 1945 UN Conference on International Organization in San Francisco, the framework for a new world order was begun to draw. Thus, a desirable and necessary force for the promotion and protection of universal human rights based on global order emerged (Normand & Zaidi, 2008, p. 143). Consequently, “in little more than half a century, the issue of human rights has become the preeminent signifier of international morality and legitimacy” (Normand & Zaidi, 2008, p. 1).

According to Falk (2008), one of the most determinant underlying reasons for the rise of human rights was the psycho-political impact of the Holocaust and the liberal democracies’ sense of guilt about how little had been done to block Adolf Hitler’s genocidal actions (p. xvi). The Holocaust issue got profound reactions from international community as a crime against humanity, as the right to life of approximately six millions Jews was taken away by Adolf Hitler’s Nazi regime. It was an example of an unprecedented violation of human rights. The idea that there should be international precautions to prevent the repetition of such an undesired case has gained a solid ground. Until then, it was individual states rather than the international community that undertook this role. With the establishment of the UN, the UN took up the lead about protection and promotion of individual rights (Strohal, 2001, p. 157).

Another reason behind the rise of emphasis on human rights was that contemporary human rights have become a tool of resistance to totalitarian regimes of fascist or communist inspiration (Senarclens, 2003, p. 139). Regarding this issue, Pierre de Senarclens (2003) states that:

In the 1960s, Third World and socialist governments used human rights as a propaganda tool to legitimize their state power and development objectives. This practice has not disappeared with the disintegration of the Soviet Empire. Several Asian governments have tried to restrict the universality of human rights by insisting on specific communitarian values which are supposed to be part of their civilization and traditions (p. 141).

After those degenerated implications of human rights, arbitrary government policies were tried to be prevented on behalf of the public by the international actors, the UN in particular. From a general point of view, a desire for a better world can be seen in widespread public support for a universal system of justice, which included a call for a universal human rights system (Normand & Zaidi, 2008, p. 4). By this way, human rights were gained importance in a systemic manner by the international community (Simmons, 2009, p. 23). It has become a *sine qua non* for development, civilization and modernity.

In time, human rights have become a political tool for states. Political leaders have included the issue of promotion and protection of human rights in their political stances as a principle. For instance, Jimmy Carter, 39<sup>th</sup> President of the United States, promoted human rights and aimed to prevent human rights violations in his period's foreign policy, which led to a Congressional requirement for the annual submission by the Department of State of "a full and complete report" on human rights practices around the world (U.S. Department of State: Office of the Historian, 2013). Especially after the failure in Vietnam, the U.S. wanted to be a protector of the weak and defender of freedom. In this respect, Carter wanted to "regain the moral stature the U.S. once had" with its human rights policy and this policy pressured authoritarian regimes in Latin America and sub-Saharan Africa and encouraged democratic forces in those parts of the world. (U.S. President Profiles, 2013).

During the late 1990s, the international human rights understanding had diffused widely, due to the rapid increase in the number of liberal democratic states which are seen as naturally hospitable to protecting human rights and growing acquiescence of non-liberal states into the human rights regime, as is the case with 1993 Vienna World Conference on Human Rights, that was attended by 171 nations and 800 NGOs (Dunne & Hanson, 2009, p. 67).

Recent perspective through human rights endeavors to use these rights for the development of the individual and includes the idea that the protection of human rights is vital for human progress and ameliorating the human condition (Ramcharan, 2008, p. 4). Human rights understanding made a considerable progress and today, human rights are significant for international public policy and scholarship (Ramcharan, 2008, p. xiv).

In addition to the above, human rights are essential to governance, necessary for a globalizing world and must be protected from violators (Ramcharan, 2008, p. 5). Justice is also a requirement for governance and thus, for order. The connection of human rights with questions of justice is noteworthy (Normand & Zaidi, 2008, p. 7). In this sense, human rights could be perceived as the basis of justice since the struggle for human rights is intimately linked to prevention of inequalities and injustices in global society. In order to fulfill its objectives and to create global agreement and consensus, modern human rights idea utilizes international law and international organizations (Normand & Zaidi, 2008, p. 15). Recognition and exercise of these rights by international community make important contributions to peaceful coexistence.

It can be said that the idea of human rights has been successful to the extent they are accepted as a standard of international morality (Normand & Zaidi, 2008, p. 7). Especially for today's international society, in general, the concept of human rights is not questioned at individual, national and international levels. However, human rights are still a fragile part of international relations and it is in need of promotion and protection. Within the framework of the governance of international humanitarian order, international protection of human rights has come to the forefront as an issue that involves a multicomponent process.

In International Relations discipline, human rights refer to the idea that “everyone everywhere shares as equal birthright of dignity that should be recognized in law and politics as matter of principle and practice” (Normand & Zaidi, 2008, p. 15). In this respect, human rights are always for everyone all the time. These rights refer to “a system of rights and obligations, which necessitates a political order founded on democratic institutions and social welfare” (Senarclens, 2003, p. 138). Thus, the common understanding is that there should be a proper environment and conditions for human rights system to be effective.

Equal dignity of every individual, regardless of his/her personal conditions is the core of human rights (Normand & Zaidi, 2008, p. 2). In other words, human rights avoid any kind of discrimination. In addition, recognition in law and politics, radical universality and primacy of individual could be seen as other requisites of human rights (Normand & Zaidi, 2008, p. 17).

Normand and Zaidi (2008) summarize the general features of human rights according to today’s consciousness as:

Human rights are rooted in religious and ethical traditions; human rights overturn the old collective duty of obedience to higher law, recognizing instead the inalienable rights of every single person; human rights are universal, applicable to all people in all cultures, transcending time and place; human rights derive from western history and philosophy and are fully open to critical scrutiny; human rights uphold individual dignity against state abuse, posing a revolutionary challenge to the prerogatives of sovereignty; human rights were established, shaped, and ratified by sovereign states, comprising just another ideological weapon in the arsenal of power politics; human rights are impartial and nonpartisan; human rights challenge the prevailing political orders in virtually every nation (p. 6).

From a broader perspective, therefore, there are some underlying concepts of human rights, which are *universality*, *equality*, *democracy* and *development* (Ramcharan, 2008, p. 6). These provide the appropriate conditions for human rights. Universality of human rights has come to mean that, “all human beings are equally entitled to basic human rights, such as the rights not to be arbitrarily killed, enslaved, and tortured” (Ramcharan, 2008, p. 6). According to Senarclens (2003), efficient universality of human rights

requires a world society “ruled by a common government capable of implementing human rights as a set of positive laws to be valid everywhere”, which could refer an ideal case (p. 138). Equality of human rights is related to the principle of non-discrimination, which requires all human rights and freedoms are for every human being. Democracy with regards to human rights indicates that governments’ authority is derived from the will of the people, which should be determined in freely held periodic elections under adult suffrage (The United Nations, 1948). Development as a basic requirement of human rights underlines that governments and regional and international institutions should try to provide all human beings with decent life chance and the opportunity to realize their potentials (Ramcharan, 2008, p. 6).

Over time, with the extended understanding of human rights, there occurred different types of these rights, which are civil and political rights (first generation rights); economic, social and cultural rights (second generation rights) and solidarity rights (third generation rights) (Heywood, 2011, p. 305). The main theme behind the first generation rights (right to life, liberty and property, right to non-discrimination, freedom from arbitrary arrest, freedom of thought) is liberty, while the basis of second generation rights’ (right to work, social security, healthcare, education, paid holidays) is equality, and the core of third generation rights’ (right to self-determination, peace, development, environmental protection) is fraternity (Heywood, 2011, p. 308). Thus, human rights, as a concept is quite complex and comprehensive. It also has a dynamic structure. To Normand and Zaidi (2008), the speed of human rights’ pervading all over the world is astonishing so, with respect to human rights extensiveness, it is observed that no other system of universal values has spread so far so fast in comparison to the human rights (p. 8).

With respect to spread of universal values system, protection of human rights has become essential for domestic and foreign policies of states. International protection of human rights facilitates and guides the national human rights attitudes. International support for the protection of human rights such as standard-setting and monitoring with substantive and technical assistance could be useful at global level.

### 3.2. INTERNATIONAL PROTECTION OF HUMAN RIGHTS

The rise in awareness for international protection of human rights has brought with it increasing emphasis on a complementary factor: justice. These two are increasingly seen as inseparable. In other words, there is no justice without human rights and there is no human right without justice. The idea behind this understanding was that “justice was man’s right, not merely a royal favor” and it could not be subject to arbitrary implementations (Ramcharan, 2008, p. 9). The perception that justice was a desired moral concept, just like human rights but it was simulated as a grace by ruling elite. This kind of mentality, which was in need of elites’ mercy, has changed.

As Bookmiller (2008) presents, while there was an increasing consensus that human rights were important, from governmental perspective, what kind of rights should be protected has become another issue of concern:

For many countries, like the United States, it was most important to prevent the government from treating its citizens in an arbitrary way, particularly when it came to individual civil liberties. The United States and like-minded governments were concerned with rights that protected freedom of speech and expression, the ability to worship freely, not to be subject to arbitrary arrest, or be deprived of a trial. For other states, particularly Communist and Socialist governments what mattered more, was that states provide a certain level of economic and social dignity. They wanted to see protections related to housing, jobs, education and health insurance (p. 96).

Today, all kinds of rights are taken to matter and thus, should be protected. Accordingly, every state has human rights obligations under the UN Charter, international customary law, treaties and general principles of law, including the principle of humanity, which generate human rights regime. Moreover, unlike at earlier times in history, in current global understanding, there is no longer a question as to whether a state has a legal obligation to uphold human rights and, these implications about human rights, have been accepted freely by most of the governments in a number of international covenants and agreements (Ramcharan, 2008, p. 47). As stated in the Preamble of the UN Charter:

WE THE PEOPLES OF THE UNITED NATIONS DETERMINED ... to reaffirm faith in fundamental human rights, in the dignity and worth of the human persons in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained (1945).

As mentioned before, the concept of human rights entails several controversies. In this respect, it should be clarified that the promotion of human rights and the protection of human rights do not refer to the same process. Ramcharan (2008) draws distinction as the promotion of human rights implies action directed toward the future, while the protection of human rights is intended to ensure the observance of human rights under existing law. Thus, protection process is a court-based activity, however, promotion process can include every available legislative technique including studies, researches, reports, and drafting texts (p. 120). Therefore, the promotion of human rights is about the establishment of political conditions which include a fair distribution of growth among social groups and the full realization of socio-economic rights at the national as well as international level (Senarclens, 2003, p. 149).

Inasmuch as human rights issue is a multidimensional concept, its protection requires multi-dimensional practices too. Generally, there are two types of international protection of human rights: direct and indirect protections. Direct international protection of human rights includes the intervention of an international entity either at the request of a victim, by persons on their behalf or by the international protecting agency to end a violation of human rights e.g. activities of the UN High Commissioner for Refugees, the UN High Commissioner for Human Rights and International Committee of the Red Cross. On the other hand, indirect international protection of human rights refers to the creation of an international environment that provides for the exercise human rights through elaboration of norms and standards, education, teaching, training, research, discrimination of information and the provision of advisory services in human rights (Ramcharan, 2008, p. 124).

The protection process should take into account political, social, economic and cultural factors. In today's understanding, human rights are seen as an ideological battlefield emphasizing difference as much as commonalities between individuals, nations and

cultures (Normand & Zaidi, 2008, p. 143). At this point, there should be careful and respectful attitudes by protector toward protected. At state level, a state has to have some qualities to guarantee human rights as sovereignty, independency, and freedom from interference and aggression (Spagnoli, 2007, p. 155). On the other hand, international level requires a complex system of rules and norms in the name of human rights, which includes that state level (Crawford, 2000). This system includes many actors.

The international agencies and instruments for international protection of human rights include *the UN (including United Nations Security Council, the Human Rights Council, the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, the United Nations High Commission for Refugees, the United Nations High Commissioner for Human Rights, the Office for the Coordination of Humanitarian Affairs), the International Labor Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), the Council of Europe, International Committee of the Red Cross (ICRC), European Convention on Human Rights (ECHR), the Organization of American States (the Inter-American Commission and the Court of Human Rights), the Organization of African Unity, the League of Arab States, and NGOs (Amnesty International, Human Rights Watch, the International Commission of Jurists, the International Association of Democratic Lawyers, the International League for Human Rights)* (Ramcharan, 2008, p. 124). All of them have important objectives and make remarkable contributions in the name of international protection of human rights. These bodies' interactions with each other are also effective and essential.

International cooperation is a requirement in the field of protection of human rights. In this respect, Ramcharan (2008) states:

States must live up to their obligations under the Charter and international human rights instruments; governments must cooperate with international human rights bodies; governments must cooperate with special procedures and mechanisms established by the UN; states and the international community should cooperate to protect human rights (p. 99).



As said above, cooperation, susceptibility, inclusivity, tolerance and so forth are closely related to the efficiency of human rights protection. Insufficient human rights protections possibly lead to human rights violations, which in turn can cause serious international crises. Global crises are often the results of nations' desires for better conditions, becoming respected and being independent. In addition, increasing disparities in the distribution of income within and between societies poses important challenge to the whole human rights system (Senarclens, 2003, p. 149). For example, Arab Spring can be observed as most recent case with the aim of Arab nations' search for individual, political, social and economic rights against insufficient governments, human rights violations, political corruption, economic degeneration, increasing unemployment, extreme poverty and so forth. These uprising movements were reactions to disrespect for fundamental rights and freedoms. From this perspective, global respect for human rights can be argued to lead to a chain reaction that would help solve many of the world's problems. The human rights idea can help improve the human condition and lay the foundation for a more peaceful prosperous and equitable future (Ramcharan, 2008, p. 1).

There are other reasons behind the idea of international protection of human rights. First, there may be a breakdown of government. In this atmosphere, the state becomes more vulnerable and human rights issue could be ignored in the absence of authorized structures. International protection is necessary in such situations. Second, national laws or judicial policies may be inconsistent with universally recognized human rights standards, and international support could be useful to alter such laws. Third, there may be some domestic judicial systems, in which a person is unable to obtain any remedy for a violation of his or her human rights. In such situations, international protection could provide effective solutions. Fourth, in the cases of international or internal conflicts or in emergency situations, an international presence could be essential in order to avoid or minimize excesses or inhumane actions. Fifth, in a world with unprecedented political, economic, social, and cultural transformations, the pressures on governments increase, which can easily cause to harsh treatment of some parts of the population. In this context, the refugee and displacement crises in many parts of the world occurred in this way. Sixth, there are some particularly vulnerable groups whose protection could be

assured by urgent international action in the cases for victims of institutionalized racism and racial discrimination, victims of slavery and slavery-like practices such as trafficking, minorities, and indigenous populations (Ramcharan, 2008, p. 116).

The perceived connection between protection of human rights and peace has led to efforts to establish a functioning system. In this respect, numerous meetings, conferences, draft treaties, treaties and institutions took place. 1889 Hague Peace Conference was one of them, in which the basic mechanism of protecting human beings through international agreement between states was first discussed in the context of peace and disarmament (Normand & Zaidi, 2008, p. 35). It was with this conference that international humanitarian law, which brought norms and standards to protect individual lives and properties, rather than states, during times of war was born through an international agreement among the world's leading nation-states (Normand & Zaidi, 2008, p. 35).

One of the main ideas of this conference was the protection of individuals from state abuse at the international level, thus separating the interests of citizens from those of their governments (Normand & Zaidi, 2008, p. 35). This is an undesired situation that ignorance of citizens' interest in order to promote states' interest. In this respect, the Hague Conference made important contribution to the development of the idea that not only states but also human beings mattered too, as well as the idea that people could be protected from states' abuse with the help of universal rights (Normand & Zaidi, 2008, p. 42).

The Conference was held to provide peaceful resolution of crises, prevent wars and codify rules of warfare (United Nations Department of Public Information, 2004, p. 2). Despite all, the Hague Conference could not prevent the outbreak of World Wars because it could not limit to military technology and could not protect civilians in conflicts (Normand & Zaidi, 2008, p. 36). On the other hand, it helped to the development of international human rights system that is fulfilled by the UN.

### **3.2.1. The United Nations As A Promoter and Protector of Human Rights**

As an idea, human rights exist on individual level, state level and systemic level in International Relations discipline. Unfortunately, violations of human rights exist at all levels too. In today's world, international society is much more responsive for human rights violations. When there are human rights violations, the UN is the international organization that is expected to take action against them. This is due to the international perception of the UN as having "promoting and protecting human rights and freedoms" as a priority objective and as an organization that is the "centerpiece of international cooperation", as stated in the UN Charter, Article 1 (3), the purposes of the UN are:

to achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promotion and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion (The United Nations, 1945).

According to Ramcharan (2008), human rights refer to the rights contained in consensual international instruments proclaimed by the UN, whether they are civil and political rights or economic, social and cultural rights (Ramcharan, 2008, p. 4). With the contribution of the UN, human rights today have a cross-cultural moral meaning and determining role with regards to the performance and legitimacy of domestic regimes (Kao, 2011, p. 1). In other words, the place of the UN for promotion and protection of human rights in international arena is considered to be essential.

As Gibson (1991) says "organizing for international protection of human rights is a central obligation of the UN system and of other regional organizations because World War II clearly demonstrated that many nations did not protect human rights for those under their jurisdictions" (p. 44). According to its structural and principal features, the UN appears in world society as the main promoter and protector of human rights. The awareness concerning promotion and protection of human rights is established through whole structure of the UN mechanism with the aim of guidance to the international community. In that vein, The UN Charter, which sets forth the foundational principles of the UN itself and its bodies, includes the protection and promotion of human rights

emphasis within its Chapters in a definite way. For instance, Chapter IV, which is related to functions and powers of the General Assembly, which is the main deliberative, policymaking and representative body of the UN, states that in Article 13:

The General Assembly shall initiate studies and make recommendations for the purpose of: a. promoting international co-operation in the political field and encouraging the progressive development of international law and its codification; b. promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion (The United Nations, 1945).

The UN has committed itself to a world of peace and justice in the framework of international respect for human rights since its establishment with the expansion of its protection work, technical assistance and support for national human rights institutions (Annan, 2005, p. 50). In this respect, the UN empowered the Economic and Social Council in UN Charter, Chapter X, Article 62(2) “to make recommendations for the purpose of promoting respect for, and observance of human rights and fundamental freedoms for all” (The United Nations, 1945). All organs of the UN share responsibility in respect to human rights implementations. In this context, for example, when a gross violation of human rights that threatens or breaches international peace and security takes place, the United Nations Security Council is the primary actor that is authorized to take necessary actions within the scope of international norms (Ramcharan, 2008, p. 124). For instance, concerning the conflict in Bosnia and Herzegovina between the three main ethnic groups, the Serbs, Croats, and Muslims, resulted in genocide committed by the Serbs against the Muslims in Bosnia, the UN Security Council’s Resolution of 1992 (S/RES/787) included condemnation of ethnic cleansing in Bosnia and Herzegovina is also important in respect to taking the initiative, by stating the Security Council (1992):

Condemns all violations of international humanitarian law, including in particular the practice of “ethnic cleansing” and the deliberate impeding of the delivery of food and medical supplies to the civilian population of the Republic of Bosnia and Herzegovina, and reaffirms that those that commit or order the commission of such acts will be held individually responsible in respect of such acts (Para. 12 (7)).

In general terms, the human rights concept firstly emerged with the UN system as a set of guiding principles and then the norms defining the nature of political legitimacy and welfare. In order to achieve this guidance aim, there should be an adequate standard of living and access to basic essentials for sustaining human existence for effective human rights protection (Senarclens, 2003, p. 139). As expressed in the UN Charter's Chapter IX, Article 55:

With a view to the creation of the conditions of stability and well-being, which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples of the United Nations shall promote:

- a. Higher standards of living, full employment, and conditions of economic and social progress and development;
- b. Solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- c. Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion (The United Nations, 1945).

The UN Charter required the development of substantive human rights standards and adoption of the Universal Declaration of Human Rights in 1948 and related international covenants and conventions (the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and Racial Discrimination Convention in 1966) (Crawford, 2000, p. 1). The Universal Declaration together with the Covenants have helped define human rights' norms and strategies and constituted the basis of human rights regime in the international system (Senarclens, 2003, p. 152).

Today, monitoring national human rights situations by the international community has become a major task of the UN. As a result, by the help of the UN, human rights have become an inseparable component of the political process in most countries and NGOs all over the world (Senarclens, 2003, p. 146). NGOs are also a part of the UN human rights system. NGOs help people to develop their potential and fulfill their rights through direct and indirect action and air their concerns about government policies and actions, which affect society (Ibrahim, 2002). In this respect, NGOs have received

consultative status under Article 71 of the Charter of the UN:

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations, which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned (The United Nations, 1945).

NGOs can participate HRC sessions as observers. In this respect, they can make oral statements and submit written documents; call attention to human rights situations needing action of the Office of the High Commissioner for Human Rights (OHCHR); suggest studies that should be carried out and instruments that should be drafted; assist in the actual drafting of declarations and treaties; submit reports alleging violations of human rights for confidential consideration by the HRC (United Nations, 2013). There is a continuous interaction between NGOs and the UN members. The participation of NGOs in the protection of human rights process refers to the inclusion of civil society thus, more comprehensive and integrative human rights implementations could be achieved.

As stated above, the UN human rights system has a multi-directional structure and it has many anchors. According to McDougal and Bebr (1964), human rights system of the UN is based on

an enormous collective effort by the virtue of all the great historic movements for man's freedom; the enduring elements in the tradition of natural law and natural rights and in most of the world's great religions and philosophies; the findings of contemporary science about the interrelations of simple respect for human dignity and all other individual and community values" (p. 604).

In this respect, establishment of the UN human rights system has been dependent on an onerous process and strong cooperation. After the 1945 UN Conference on International Organization in San Francisco, in the context of human rights, the most common demands were for a commission on human rights to promote worldwide recognition and for an enforceable bill of human rights to guarantee concrete protections (Normand & Zaidi, 2008, p. 127).

With the aim of human rights protection, the UN Commission on Human Rights was established in 1946, which was important in shaping international human rights system to protect fundamental rights and freedoms. It was the only human rights body established through a specific provision of the UN Charter's Article 68:

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions (The United Nations, 1945).

The UN Commission of Human Rights (CHR) was replaced by the UN Human Rights Council (HRC) in March 2006. For nearly 60 years, the HRC has been the foremost institution for the advancement of the international human rights agenda (Seligman, 2011, p. 520). It is the principal intergovernmental policy-making body for human rights at the UN (United Nations Department of Public Information, 2004, p. 233). As Seligman (2011) points out, initially, the Commission served as a forum for states to establish and promote global human rights standards but then, the Commission's mandate was expanded to adoption of resolutions that examined and criticize of the human rights records of specific states (p. 520). Today, HRC provides overall policy guidance; examines human rights problems; develops new international norms and monitors the observance of human rights around the world (United Nations Department of Public Information, 2004, p. 233). However, it was criticized for implementing double standards, a problem that was frequently attributed to the ease with which rights abusing states attained membership on the body and control of its agenda and for limiting itself to only a select few and thus many social rights abusers are never discussed (Seligman, 2011, p. 520). Currently, OHCHR serves as the secretariat for the HRC, the treaty bodies (expert committees that monitor treaty compliance) and other UN bodies, such as UNICEF, UNESCO, UNDP, UNHCR and the United Nations Volunteers (UNV) (United Nations Department of Public Information, 2004, p. 235).

In addition, during the 48th session of the United Nations General Assembly in 1993, the post for a high commissioner for human rights, with principal responsibility for UN human rights activities, was created in order to head OHCHR, spearhead the UN's human rights efforts and highlight to human rights agenda in the UN (OHCHR, 2013).

The UN High Commissioner for Human Rights works “to strengthen and coordinate UN efforts for the protection and promotion of all human rights of all persons around the world” (United Nations Department of Public Information, 2004, p. 227). Since 1 September 2008, Navanethem Pillay serves as UN High Commissioner for Human Rights, who was approved by the General Assembly.

In the light of the above formal organizational structure, the UN has come to be seen at the center stage for the creation of a new system of international morality by civil society, private initiatives and individuals with the aim of answering this question: ‘how were human rights to be incorporated as meaningful standards into the new international organization and what could be done to remedy past and ongoing violations?’ (Normand & Zaidi, 2008, p. 144).

In this context, the idea of international bill of human rights became prominent and in 1946, 12 different drafts of bill of rights, which were from Western representatives, were received (The United Nations, 2013). It took 18 years for contentious negotiations to draft the bill of rights. However, the most important issues of universal human rights were decided by a handful of governments and their appointed representatives (Normand & Zaidi, 2008, p. 145).

Within this period, at the beginning, states acted with deliberation. Big powers wanted to ensure that human rights did not intrude national priorities and domestic legal orders in ways that might call into question a state’s treatment of its citizens or people living under its control, in short, they did not want to see human rights as an obstacle in front of their authorities (Normand & Zaidi, 2008, p. 224). The UN made important effort to the settlement of the human rights system within the international society.

As significant initiatives of the UN, the 1946 onwards era included to many resolutions of General Assembly concerning human rights such as Resolution 260-Genocide Convention of 1948 to prevent atrocities, such as the Holocaust, from happening again; Resolution 428-Refugee Convention of 1950 to protect the rights of people who are forced to flee their home country for fear of persecution on specific grounds; Resolution



1904- Racial Discrimination Convention of 1963 to oblige states to take steps to prohibit racial discrimination and promote understanding among all races; Resolution 2200 A- Economic, Social, Cultural Rights Covenant and Civil and Political Rights Covenant of 1966 to protect rights like the right to an adequate standard of living, education, work, healthcare, social security, the right to vote, the right to freedom of association, the right to a fair trial, right to privacy, and the right to freedom of religion; Resolution 34/180- Discrimination Against Women Convention of 1979 to oblige states to take steps to eliminate discrimination against women and to ensure that women enjoy human rights to the same degree as men in a range of areas, including education, employment, healthcare and family life; Resolution 39/146- Convention Against Torture of 1984 to prevent torture around the world by compelling states to take steps to eliminate torture in within their borders and prohibiting states from sending a person to another country where he or she would be in danger of being subjected to torture; Resolution 44/35- Children's Convention of 1989 to provide children to the same human rights as all other people by creating special rights for children, recognizing their particular vulnerability, such as the right to express their views freely (United Nations, 2013).

All these resolutions made significant contributions to the adoption of human rights understanding by international community. With these resolutions, protection of human rights gained legalization, which enhanced the accountability and reliability in the eye of societies. These have regulative, normative, interventionist and solution oriented implications by the UN.

Some other remarkable developments occurred during the Cold War within the UN framework that strengthened its role as a promoter and protector of human rights. In 1950, the Office of the United Nations High Commissioner for Refugees was established by the UN General Assembly in the wake of World War II to help Europeans displaced by that conflict (UNHCR, 2013). Its primary purpose is to safeguard the rights and well-being of refugees by ensuring that “everyone can exercise the right to seek asylum and find safe refuge in another State, with the option to return home voluntarily, integrate locally or to resettle in a third country” (UNHCR, 2013).

The establishment of UNHCR is very important in the name of protection of human rights because inter-state or intra-state conflicts create a state of emergency that refers to the minimum level of exercise of human rights relating to security concerns. In this respect, an agency like UNHCR could be helpful to the people, who had to leave their country because of unfavorable living conditions.

The Cold War period also witnessed the first International Conference on Human Rights in Teheran in 1968, marking the 20<sup>th</sup> anniversary of the UDHR, which “urged all peoples and Governments to dedicate themselves to the principles enshrined in the Universal Declaration of Human Rights and to redouble their efforts to provide for all human beings a life consonant with freedom and dignity and conducive to physical, mental, social and spiritual welfare” (United Nations, 2013). The Conference was crucial because at that period, the idea of human rights and the requirement of their protection was in progress, thus it made a contribution to raising awareness about human rights. According to Forsythe and Mehrrens (2009), the conference referred to the end of the first era of the UN activity on human rights issues and set the stage for the second phase, with the attempt for the promotion of indirect human rights protection means.

The 1993 World Conference on Human Rights in Vienna was also significant for the promotion of international cooperation and dialogue for human rights, and states' efforts to spread universal respect for and observance and protection of all human rights and fundamental freedoms (Ramcharan, 2008, p. 100). The conference helped to develop transnational networks of human rights activists and organizations within the framework of the UN system (Normand & Zaidi, 2008, p. xvii). The conference could be perceived as an analysis of the functionality of the protection and promotion of human rights system, which was tried to be established by UDHR. This World Conference was also significant in respect to the internalization of enjoyment of human rights.

On 25 June 1993, representatives of 171 States adopted by consensus the Vienna Declaration and Programme of Action of the World Conference on Human Rights, which was a common plan for the international community to strengthen human rights

work around the world with restating the international community's commitment to the promotion and protection of human rights (OHCHR, 2013). The Vienna Declaration and Programme of Action marks the completion of a long process, including reviews and debates over the current status of human rights machinery in the world. It could be seen as an adjustment for human rights instruments that have been constructed on the foundation of the UDHR since 1948.

In 1989 the General Assembly called for the convening of a world meeting that would review and assess progress made in the field of human rights since the adoption of the UDHR, identify obstacles and ways in which they might be overcome, examine the link between development, democracy and economic, social, cultural, civil and political rights, and evaluate the effectiveness of UN methods and mechanisms with the aim of recommending ways to ensure adequate financial and other resources for UN human rights activities (OHCHR, 2013).

Within this process, the search for common ground on issues such as national sovereignty, universality, the role of non-governmental organizations and questions concerning the feasibility, viability and impartiality of new or strengthened human rights instruments and many other issues was characterized by intense dialogue among governments and dozens of UN bodies, specialized agencies and other intergovernmental organizations and thousands of human rights and development NGOs from around the world (OHCHR, 2013).

The final document agreed to in Vienna, which was endorsed by the 48<sup>th</sup> session of the General Assembly (resolution 48/121, of 1994), reaffirmed the principles that had evolved during the past 45 years and further strengthened the foundation for additional progress in the area of human rights. For instance, the acknowledgement of interdependence between democracy, development and human rights, facilitate the future cooperation by international organizations and national agencies in the promotion of all human rights, including the right to development (OHCHR, 2013).

In similar vein, the Conference took new steps to promote and protect the rights of women, children and indigenous peoples by, respectively, supporting the creation of a new mechanism, a Special Rapporteur on Violence against Women, subsequently

appointed in 1994; recommending the proclamation by the General Assembly of an international decade of the world's indigenous peoples, which led to the proclamation of two decades (1995-2004 and 2005-2014); and calling for the universal ratification of the Convention on the Rights of the Child by the year 1995 (OHCHR, 2013). The Vienna Declaration also makes concrete recommendations for strengthening and harmonizing the monitoring capacity of the UN system. In this regard, it called for the establishment of a High Commissioner for Human Rights by the General Assembly, (resolution 48/141) (OHCHR, 2013).

In the light of these developments, the end of the Cold War helped remove the suspicions of the requirement about the protection of human rights and had significant effects on the process of development of human rights. After the end of the Cold War, the UN human rights system has moved from standard setting to implementation of human rights policies, through institutionalization and enforcement (Mertus, 2009, p. 2). With the end of the Cold War and the rise of global communications and exchange, significant advances in human rights occurred.

In this context, democracy put an end to a conflict that had distorted all areas of international relations; at the level of states, the end of ideological dissent created new possibilities to advance global peace and security with a strong commitment to international law; human rights perceived as a mean to build a more cooperative world; at the level of civil society, enhanced human rights discourse and activism occurred thereby, in every corner of the world, NGOs were established to fight for a broad range of rights, notably economic and social and women's rights; at the UN, human rights were included and extended with various programs and agencies in an effort to address the long-standing institutional weakness of human rights implementation (Normand & Zaidi, 2008, p. 316).

In other words, with the disappearance of rivalries between superpowers and the loose of civil society energies, the world has become ready to advance the human rights system through the development of meaningful enforcement measures to protect the full range of people's rights (Normand & Zaidi, 2008, p. 316).

On the other hand, despite relative conducive environment for the advancement of universal human rights system, the end of the Cold War did not resolve the long-standing tensions and structural weaknesses, such as continuation of superpower manipulation and the shield of sovereignty in a state-based world system. Thus, notwithstanding the priority attached to human rights in the UN, promotion and protection of human rights has remained dependent on voluntary state compliance with soft norms and policy targets (Normand & Zaidi, 2008, p. 317). These have constituted challenges to international human rights regime.

In the course of events, the UN has substantive human rights bodies, which could be categorized as ‘Charter-based Bodies’ and ‘Treaty-based Bodies’. Charter-based mechanisms have general objectives than the treaty bodies. Both were structured in substantive terms as well as in geographic applicability (Strohal, 2001, p. 165).

### 3.2.1.1. Charter-based Bodies

The Charter-based bodies includes all UN organs established by or derived from the UN Charter that either directly or indirectly play a role in the protection and promotion of human rights such as the General Assembly, Security Council, ECOSOC, etc (UNDP, 2012). To be more specific, Charter-based bodies are Human Rights Council (2006- ), Universal Periodic Review Working Group (2007- ), Human Rights Council Advisory Committee (2007- ), Special Procedures (1947- ), Commission on Human Rights (1946-2006) and Sub-commission on the Promotion and Protection of Human Rights (1947-2006) (The United Nations, 2013). Among them, Human Rights Council (HRC) deals exclusively with human rights with the aim of identifying human rights issues worldwide and making recommendations (UNDP, 2012). Two of its most relevant mechanisms are: Universal Periodical Review (UPR) that refers a peer-review process in which member states review the overall human rights situation three times a year (‘troikas’) and produce recommendations. Each state is reviewed on its human rights records every four years. The other one is Special Procedures in which the HRC appoints Special Rapporteurs, Independent Experts and Working Groups to monitor the human rights situation in specific countries (country mandates) or on specific issues

(thematic mandates), such as extreme poverty or water and sanitation so Special Procedures can make country visits, conduct research and provide recommendations (UNDP, 2012).

### 3.2.1.2. Treaty-based Bodies

Treaty-based bodies are committees (Human Rights Committee, Committee on Economic, Social and Cultural Rights, Committee on the Elimination of Racial Discrimination, Committee on the Elimination of Discrimination against Women, Committee against Torture, Committee on the Rights of the Child, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of Persons with Disabilities) composed of independent experts who monitor the implementation of the nine core human rights treaties, which are:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Convention on the Rights of the Child (CRC)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)
- Convention on the Rights of Persons with Disabilities (CRPD)
- International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED) (UNDP, 2012)

The functions of human rights committees include “review of state reports; state-to-state, individual and other forms of communications; the issuance of ‘General Comments’; thematic discussions and other open fora and establishing ‘National Plans of Action’” (Mertus, 2009, p. 65).

Other bodies that act in coordination with charter-based mechanisms and treaty-based bodies are referred as the UN Offices on human rights. These include Office of the High Commissioner for Human Rights (OHCHR), United Nations High Commissioner for Refugees (UNHCR), Office of the Special Adviser on the Prevention of Genocide, Office of the Special Representative of the Secretary-General for Children and Armed Conflict and Office on Drugs and Crime (The United Nations, 2013).

On the other hand, the foundational international instruments of the international human rights regime are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (Mertus, 2009, p. 2).

The Human Rights Committee was established in order to help the implementation of ICCPR. The substantive rights protected within ICCPR are self-determination; legal redress; equality; life; liberty; freedom of movement; fair, public and speedy trial of criminal charges, privacy; freedom of expression, thought, conscience and religion; peaceful assembly; freedom of association; family and participation in public affairs (Mertus, 2009, p. 82). Committee in Economic, Social and Cultural Rights was established for implementation of ICESCR. The rights protected within ICESCR are right to gain a living by work; right to enjoy trade union rights; right to receive social security; right to have protection for the family; right to possess adequate housing and clothing; right to be free from hunger; right to receive health care; right to obtain free public education and right to participate in cultural life, creative activity and scientific research (Mertus, 2009, p. 84). Committee on the Elimination of Racial Discrimination was established for implementation of Race Discrimination Convention. The rights protected within Race Discrimination Convention are right to equality before the law without distinction as to race, color or national or ethnic origin and to equality in the

enjoyment of the right to equal treatment before tribunals and all other organs administering justice; right to security of the person and the protection by the states against violence or bodily harm whether inflicted by government officials or others; right to vote and stand for election and right of access to any place or service intended for use by the general public (Mertus, 2009, p. 85).

Current human rights system of the UN is in interaction with the fields of development, humanitarian and refugee affairs, trade, labor and security (Mertus, 2009, p. 2). Today, all UN bodies and specialized agencies, including World Bank and International Monetary Fund (IMF) are undertaking efforts to incorporate the promotion or protection of human rights into their agendas (Mertus, 2009, p. 4). As Kofi Annan (2009) mentioned, “since respect for human rights is central to the legitimacy of the State order, human rights should be nurtured locally by branches of government, national human rights institutions and civil society”.

Notwithstanding, within the UN framework, states are still central to the human rights regime. As Mertus (2009) indicates, “without state commitment to the domestic implementation of human rights, the system will fail” (p. 4). In fact, states invoke human rights concerns to justify their foreign policy decisions and defend their own domestic policies on the basis of observance of human rights (Mertus, 2009, p. 4). It is obvious that the state is determinant of protection of human rights within the universal human rights system but intergovernmental and non-governmental organizations are also significant with respect to the human rights system in practice (Mertus, 2009, p. 5).

### **3.2.2. The Universal Declaration of Human Rights (UDHR)**

A few years after its establishment, the UN General Assembly passed the landmark Universal Declaration of Human Rights (UDHR) on 10 December 1948 (Bookmiller, 2008, p. 96). Thus, the International Covenant on Civil and Political Rights with its two Optional Protocols, the International Covenant on Economic, Social and Cultural Rights, and Universal Declaration of Human Rights, all together compose “International Bill of Human Rights”, that is the constitutional basis of the international human rights



system (Strohal, 2001, p. 160). In addition to them, there are other treaties that constitute human rights system such as *the Convention Against Genocide (1948)*, *the Convention for the Eliminator of All Forms of Racial Discrimination (1965)*, *the Convention for the Eliminator of All Forms of Discrimination Against Women (1979)*, *the Convention Against Torture (1984)*, *the Convention on the Rights of the Child (1989)* (Strohal, 2001, p. 160).

UDHR was the result of the experience of the World War II. After the end of the World War II international community aimed to prevent the repetition of such atrocities, thus, world leaders decided to complement the UN Charter with a road map to guarantee the rights of every individual everywhere (The United Nations, 2013). The entire text of the UDHR was composed in less than two years and was signed by 26 countries with the intention to struggle with tyranny, cruelty and serfdom (Normand & Zaidi, 2008, p. 93). It generates the foundation of contemporary international human rights law and the core of the global human rights movement. It provides “an authoritative interpretation of the clauses in the UN Charter, under which members commit to ‘take joint and separate action’, to promote ‘universal respect for and observance of human rights and fundamental freedoms for all without discrimination as to race, sex, language or religion’” (Lewis & Skutsch, 2001, p. 926).

All articles of UDHR have a structure as regulator promoter and protector. Among them, Articles 1 and 2 of UDHR represents the main idea behind human rights: “All human beings are born free and equal in the dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood” and all human beings are entitled to all rights and freedoms set forth in the Declaration “without distinction of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (The United Nations, 1948).

Articles 3 to 21 refer to the civil and political rights to which all human beings are entitled, including:

- The right to life, liberty and security
- Freedom from slavery and servitude
- Freedom from torture or cruel, inhuman or degrading treatment or punishment
- The right to recognition as a person before the law; the right to judicial remedy; freedom from arbitrary arrest, detention or exile; the right to a fair trial and public hearing by an independent and impartial tribunal; the right to be presumed innocent until proved guilty
- Freedom from arbitrary interference with privacy, family, home or correspondence, freedom from attacks upon honor and reputation; the right to protection of the law against such attacks
- Freedom of movement; the right to seek asylum; the right to a nationality
- The right to marry and to found a family; the right to own property
- Freedom of thoughts, conscience and religion; freedom of opinion and expression
- The right to peaceful assembly and association
- The right to take part in government and to equal access to public service (United Nations Department of Public Information, 2004).

Articles 22 to 27 are about the economic, social and cultural rights to which all human beings are entitled, including:

- The right to social security
- The right to work; the right to equal pay for equal work; the right to form and join trade unions
- The right to rest and leisure
- The right to a standard of living adequate for health and well-being
- The right to education
- The right to participate in the cultural life of the community (United Nations Department of Public Information, 2004).

Thus, UDHR presents a set of morally authoritative rights and fundamental freedoms, which are socially guaranteed (Kao, 2011, p. 1). It serves as a model for domestic and

international human rights treaties, conventions and national constitutions (Lewis & Skutsch, 2001, p. 926).

### **3.2.3. Twin Covenants**

As important components of international human rights regime, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights should also be mentioned in addition to the Universal Declaration of Human Rights, as adopted by the UN General Assembly in 1966. These two covenants are known as “Twin Covenants”, which are in principle enforceable and provide for the establishment of routine procedures for monitoring state compliance and the main aim with these covenants was to strengthen the Universal Declaration of Human Rights in addressing the rights of individuals (Cole, 2003, p. 2). In this context, the covenants are meant to expand the scope of the rights and freedoms originated from the Universal Declaration of Human Rights by amplifying the scope of states’ existing human rights obligations and consolidated the international human rights regime (Lyons, 2010, p. 15).

Bespeaking their common heritage, singular purpose, and coeval development, the preambles of each covenant recognize that human rights derive from the inherent dignity of human beings and they are identical as:

The State Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles... (United Nations General Assembly, 1966).

Several of the introductory articles are also articulated verbatim in both covenants. These include the right of all peoples to self-determination (giving added force to decolonization) and the extension of rights enumerated in the covenants to all people, irrespective of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Cole, 2003, p. 4).

Many countries that ratified one of the twin covenants also ratified the other contemporaneously (Cole, 2003, p. 5). After the genocidal activities in Second World War, ethical concerns and the importance of individual rights increased in international arena thus, international covenants have become a tool for prevention of arbitrary behaviours against human rights violations. By ratifying these covenants, states parties accept a legal as well as moral obligation to promote and protect human rights and fundamental freedoms. However, it is a fact that states adopt international covenants not necessarily because of their deep commitment to protect the rights of their citizens, but because doing so signals to external observers that they are behaving in a legitimate manner (Cole, 2003, p. 11). By any means, twin covenants have contributed the legitimacy of international human rights regime. They helped to development of the concept of human rights in the modern era. They constitute the inspiration for numerous other human rights instruments, both international and regional.

Considering all these components of human rights regime of the UN, nonetheless, there are some criticisms to the UN regarding its implementation of human rights and its reaction to human rights violations. According to Normand and Zaidi (2008), it has become normal not to expect a sudden and serious response from the UN unless there happens to be compelling geopolitical motive for taking strong protective action (p.

xvi). For example, as a current issue, the UN was charged in a lawsuit relating Haiti's deadly cholera epidemic. In 2004, UN Stabilization Mission in Haiti (MINUSTAH) was established to restore a secure and stable environment in the aftermath of an armed conflict, which spread to several cities across the country (The United Nations, 2013). Because of a catastrophic earthquake on 12 January 2010, the UN Secretary-General Ban Ki-moon recommended to increase the overall force levels of MINUSTAH to support the immediate recovery, reconstruction and stability efforts in the country (The United Nations, 2013). At the end of the 2010, the Haitians contend that inadequate sanitation at a UN peacekeeping base introduced and spread the disease through the country's waterways from broken pipes and waste pits, sewage trickled. Since then, many scientific studies have provided strong support for the hypothesis that Haiti's cholera strain came from Nepal (B., 2013). Supposedly, the UN knew or should have known that Nepalese members of its peacekeeping force in Haiti had been infected with cholera from their home country and had spread the disease through reckless sewage disposal, "resulting in explosive and massive" cholera outbreaks (Gladstone, 2013). As included in the New York Times, Ira J. Kurzban, a civil rights lawyer who helped file the lawsuit, stated: "basically the UN has stonewalled throughout this entire process," and "instead of immediately helping the Haitian people, they spent months denying their responsibility and took no action" (Gladstone, 2013). This example indicates the UN's lack of deliberation and its neglectfulness in humanitarian processes.

In this sense, the UN's method, timing and justification have become highly questionable. Within the human rights system, whether importance of state interest prevails is the key concern. In the context of the governance of international humanitarian order, which underlines non-coercive means in international arena, non-coercive measures for observance of human rights have also come into prominence.

## **CHAPTER 4**

### **NON-COERCIVE PRACTICES FOR THE PROTECTION OF HUMAN RIGHTS**

As elaborated in previous chapters, the governance of international humanitarian order is a critical issue in international relations. In this context, good governance concept is considered to be a core element of an effective international humanitarian order. It is commonly accepted that good governance and human rights are mutually reinforcing: the former is a precondition for the realization of the latter (OHCHR, p. 1). They facilitate each other as interdependent concepts. Human rights principles present a set of values to guide the work of governments as well as other political and social actors, and provide a set of performance standards against which these actors can be accountable (OHCHR, p. 1). In this sense, good governance is a requirement for human rights otherwise human rights cannot be respected and protected in a sustainable manner. An effective governance of international humanitarian order is possible through a substantive mechanism of promotion and protection of human rights.

In this framework, human rights protection is indispensable due to the enhanced human-based approaches in the fields of security, welfare and peace within a globalized world. It is also essential to provide human rights protection without use of force and coercive measures, since the concept of use of force is against human rights on its own. The UN appears as an effective and dignified actor in the implementation of good governance, and protection and promotion of human rights with its comprehensive human rights mechanism. To understand the non-coercive practices for the human rights protection, human rights mechanisms of this protection system, which is adopted by the UN, should be propounded. With regards to non-coercive practices of the UN, especially the examination of the practices of OHCHR would be guiding with respect to promotion and protection of human rights as observable actions. In this context, some of the recent practices, developments and regulations of human rights protection all around the world should be presented.

## **4.1. THE UNITED NATIONS' HUMAN RIGHTS MECHANISMS**

The implementation of human rights is an extensive process that relies on a conducive and enabling environment with appropriate legal frameworks and institutions as well as political, managerial and administrative processes responsible for responding to the rights and needs of the population (OHCHR, p. 2). To respond to the calls of international society in relation to human rights, especially regarding their violation, the protection is the main item of the United Nation human rights agenda.

In the context of the UN human rights protection machinery, the details of the functioning of Human Rights Council as the major UN body working to promote and protect human rights should be underlined.

### **4.1.1. Human Rights Council (HRC)**

As a leading human rights body of the UN, the HRC provides overall policy guidance; studies human rights problems; develops new international norms and monitors the observance of human rights around world (United Nations Department of Public Information, 2008, p. 246). It provides a forum for states, intergovernmental organizations and NGOs to express their concerns about human rights issues (OHCHR, 2013). In this regard, 47 members are elected by direct and secret ballot in the General Assembly with majority vote for three-year term and may serve no more than two consecutive terms (United Nations Department of Public Information, 2008, p. 246). With regards to the members' obligation in relation to human rights, the General Assembly's Resolution (2006) 60/251 states that:

All members are required to uphold the highest standards in the protection and promotion of human rights and to fully cooperate with the HRC. They are subject to a universal, periodic review, to ensure that they are themselves upholding the standards they seek to enforce. They can be suspended for gross and systemic human rights violations by a two-thirds vote of members of the Assembly present and voting (Para. 12 (8)).

Thus, states and NGOs present information to the HRC on situations of concern to

them. The governments involved often submit replies. Following that, HRC may designate experts of fact-finding groups, organize on-the-spot visits, pursue discussions with governments, provide assistance and condemn violations it has uncovered (United Nations Department of Public Information, 2008, p. 246).

If a particular situation is deemed sufficiently serious, HRC may order an investigation by either a group of independent experts (working groups) or an individual (special rapporteur or representative). Based on information received from these experts, HRC then calls upon the government concerned to bring about needed changes and to take due precautions (United Nations Department of Public Information, 2008, p. 247).

The UN's human rights mechanism refers to a complex coordination web. In the course of human rights mechanisms for the non-coercive human rights practices, because of their complementary roles for HRC in the name of protection of human rights, Universal Periodic Review, Human Rights Council Advisory Committee and Human Rights Council Complaint Procedure should also be presented.

#### **4.1.2. Universal Periodic Review (UPR)**

The Universal Periodic Review (UPR) was created through the UN General Assembly on 15 March 2006 with the ultimate aim of improving the human rights situation in all countries and addressing human rights violations wherever they occur (OHCHR, 2013). In this regard, The UPR is a state-driven process that involves a review of the human rights records of all UN Member States under the auspices of the Human Rights Council, which provides the opportunity for each state to declare what actions they have taken to improve the human rights situations in their countries and to fulfill their human rights obligations (OHCHR, 2013). The UPR is designed to ensure equal treatment for every country when their human rights situations are assessed (OHCHR, 2013). To fulfill its goal, the UPR provides technical assistance to states and enhance their capacity to deal effectively with human rights challenges and shares best practices in the field of human rights among states and other stakeholders (OHCHR, 2013).



Within the UPR process, the reviews are conducted by the UPR Working Group, which consists of the 47 members of HRC (however any UN Member State can take part in the discussion/dialogue with the reviewed states). Each state review is assisted by groups of three states, known as “troikas”, who serve as rapporteurs. Generally, the reviews are based on:

information provided by the state under review, which can take the form of a “national report”; information contained in the reports of independent human rights experts and groups, known as the Special Procedures, human rights treaty bodies, and other UN entities; information from other stakeholders including national human rights institutions and non-governmental organizations (OHCHR, 2013).

Reviews occur with an interactive discussion between the state under review and other UN Member States. In this discussion, any UN Member State can pose questions, comments and/or make recommendations to the states under review. The reviewed state has the opportunity to make preliminary comments on the recommendations choosing to either accept or note them. Both accepted and noted recommendations are included in the report. The report then has to be adopted at a plenary session of the HRC (OHCHR, 2013).

#### **4.1.3. Human Rights Council Advisory Committee**

Human Rights Council Advisory Committee provides expertise to HRC and focuses on studies and research-based advice in which it should be implementation oriented and the scope of its advice should be limited to thematic issues pertaining to the mandate of HRC (promotion and protection of all human rights) (OHCHR, 2013). These thematic issues are “human rights education and training, missing persons, leprosy-related discrimination, human rights and international solidarity, right to food, enhancement of international cooperation in the field of human rights, right of peoples to peace (past mandates and achievements); promotion of a democratic and equitable international order, integration of a gender perspective, persons with disabilities (standing items); terrorist hostage taking (work in progress) (OHCHR, 2013).

In respect to preparation of its studies, Human Rights Council Advisory Committee generates drafting groups consisting of 4-5 members. Studies are then presented to the plenary of the Committee for successive rounds of discussion and revision. Drafting groups present a preliminary report and a progress report before submitting a final study to HRC (OHCHR, 2013).

#### **4.1.4. Human Rights Council Complaint Procedure**

On 18 June 2007, the Human Rights Council adopted resolution 5/1 entitled “Institution-Building of the United Nations Human Rights Council” by which a new complaint procedure was established to address consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances with a view to enhance cooperation with the state concerned as impartial, objective, efficient, victims-oriented and conducted in a timely manner (United Nations General Assembly, 2007).

The complaint procedure addresses communications submitted by individuals, groups, or non-governmental organizations that claim to be victims of human rights violations or that have direct, reliable knowledge of such violations (OHCHR, 2013).

##### **4.1.4.1. The Complaint Procedure**

General Assembly resolution (2007) 5/1 states that:

The members of the Working Group on Communications shall decide on the admissibility of a communication and assess the merits of the allegations of violations, including whether the communication alone or in combination with other communications appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms. The Working Group on Communications shall provide the Working Group on Situations with a file containing all admissible communications as well as recommendations thereon. When the Working Group on Communications requires further consideration or additional information, it may keep a case under review until its next session and request such information from the State concerned. The Working Group on Communications may decide to dismiss a case. All decisions of the Working Group on Communications shall be based on a rigorous application of the admissibility criteria and duly justified (para. 94).

In this framework, the Chairperson of the Working Group on Communications, together with the Secretariat, undertake an initial screening of communications based on the admissibility criteria. Manifestly ill-founded and anonymous communications are screened out. Communications not rejected in the initial screening are transmitted to the state concerned to obtain its views on the allegations of violations. Both the author of a communication and the state concerned are informed of the proceedings at each stage.

Two distinct working groups - the Working Group on Communications and the Working Group on Situations – are responsible, respectively, for examining written communications and bringing consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms to the attention of HRC.

#### 4.1.4.2. The Criteria For A Communication To Be Accepted For Examination

The process of complaint depends on determined criteria. A communication related to a violation of human rights and fundamental freedoms is admissible, provided that:

- It is not manifestly politically motivated and its object is consistent with the Charter of the United Nations, the Universal Declaration of Human Rights and other applicable instruments in the field of human rights law;
- It gives a factual description of the alleged violations, including the rights which are alleged to be violated;
- Its language is not abusive. However, such a communication may be considered if it meets the other criteria for admissibility after deletion of the abusive language;
- It is submitted by a person or a group of persons claiming to be the victims of violations of human rights and fundamental freedoms, or by any person or group of persons, including non-governmental organizations, acting in good faith in accordance with the principles of human rights, not resorting to politically motivated stands contrary to the provisions of the Charter of the United Nations and claiming to have direct and reliable knowledge of the violations concerned. Nonetheless, reliably attested communications shall not be inadmissible solely because the knowledge of the individual authors is second-hand, provided that they are accompanied by clear evidence;

- It is not exclusively based on reports disseminated by mass media;
- It does not refer to a case that appears to reveal a consistent pattern of gross and reliably attested violations of human rights already being dealt with by a special procedure, a treaty body or other United Nations or similar regional complaints procedure in the field of human rights;
- Domestic remedies have been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged (United Nations General Assembly, Resolution 5/1, para.87, 2007).

According to this resolution, national human rights institutions (NHRIs), in particular in regard to quasi-judicial competence, may serve as effective means of addressing individual human rights violations (United Nations General Assembly, 2011).

HRC's Resolution 5/1 is determinant related to institution-building of the HRC. One year later from the creation of HRC by General Assembly Resolution 60/251 on 15 March 2006, the HRC adopted this institution-building package to guide its work and set up its procedures and mechanisms on 18 June 2007 (OHCHR, 2013). Resolution 5/1 enhanced the content of Resolution 60/251 by introducing some additional elements such UPR, Advisory Committee and Complaint Procedure within the HRC framework.

All these processes are set up in order to protect of human rights in the framework of good governance and with the aim of peaceful coexistence. The UN has a multidimensional mechanism to promote and protect human rights all over the world. In order to clarify this human rights mechanism through implications, thematic priorities of the UN should be mentioned, which are *discrimination, impunity and the rule of law, poverty and economic, social and cultural rights, migration and armed violence and insecurity* (OHCHR, 2012).

## **4.2. PRIORITIES OF THE UN IN THE CONTEXT OF HUMAN RIGHTS**

### **4.2.1. Discrimination**

The UN adopts principles of equality and non-discrimination in its framework for promotion and protection of human rights. With the aim of preventing discrimination, OHCHR uses national laws, policies and institutions as tools for non-discrimination. It works for the strengthening groups and individuals facing discrimination by facilitating their participation in relevant activities, carries out projects to strengthen their capacity to claim their rights and supports grassroots and community-based attempts to combat discrimination (OHCHR, 2012, p. 18).

Generally, OHCHR deals with racial discrimination, indigenous peoples, and discrimination against women in law and practice, sexual orientation, persons living with HIV/AIDS, stigma and marginalization and persons with disabilities under the title of discrimination. Concerning racial discrimination, OHCHR contributes governments' formulation, adoption or revision of draft legislation and policies, and their institutional reforms (OHCHR, 2012, p. 18). In addition, OHCHR provides human rights expertise and advice, supports civil society organizations in their advocacy efforts, assists United Nations Country Teams (UNCTs) in providing comments on draft laws and advocates the adoption of laws which are in compliance with ICERD (OHCHR, 2012, p. 18). For instance, after five years of OHCHR's engagement with the government and civil society actors, the Republic of Moldova adopted a comprehensive anti-discrimination law in May 2012, in which the government committed to implementing a comprehensive ban on discrimination (OHCHR, 2012, p. 18). In a similar vein, OHCHR has provided support for developing national action plans of Benin, Bolivia, Burkina Faso, Costa Rica, Mauritania, Niger and Nigeria in 2012 (OHCHR, 2012, p. 18). Another action regarding nondiscrimination of indigenous peoples was OHCHR trainings given to staff of the Ministry of Energy and Mining of Guatemala in 2012 to improve their knowledge on international human rights standards and the rights of indigenous peoples, particularly regarding the obligation of states to consult with indigenous peoples (OHCHR, 2012, p. 19).

In the context of discrimination against women, the UN has aimed to promote the adoption of laws that ensures equality of treatment, opportunity and access of women and men. As an example, OHCHR provided logistical support and substantive advice to the 11th International Conference of National Human Rights Institutions and its Drafting Committee, held in Jordan in November 2012 with focus on the human rights of women and girls to promote gender equality. At the end of the Conference, participants adopted the Amman Declaration and Programme of Action, along with regional action plans with the aim of promotion and protection the human rights of women (OHCHR, 2012, p. 21). In a similar vein, The United Nations Working Group on the issue of discrimination against women in law and in practice, which was established by the HRC in 2010 has expressed concerns on equality, non-discrimination and protection and promotion of women's human rights in the final draft of the new Constitution which was approved by the Constituent Assembly on 30 November 2011 and has encourage the Egyptian Government with recommendations to abide by commitments made through the ratification of international instruments to which it is a party, including the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, which obligate States parties to ensure that the Constitution and other legislation are compatible with the principle of non-discrimination against women, and equality of women with men (UNOG, 2012).

With respect to the persons with disabilities, through an OHCHR advocacy project in the Russian Federation, the Regional Organization of Persons with Disabilities, Perspektiva, and its partners increased awareness of over 400 stakeholders, including government officials, educational workers, legislators, disability NGO activists, and experts, journalists, students, people with disabilities and members of their families. As a result, the draft Federal Law On Education in the Russian Federation was prepared which referred to the “inclusive and integrated education of people with disabilities,” and stressing that the state must create the necessary conditions for high-quality education without discrimination for persons with disabilities (OHCHR, 2012, p. 22).

As another initiative in respect to promotion of nondiscrimination, one can point that, OHCHR provided comments on the draft amendments of Moldova's 2005 Law on HIV/AIDS strengthening guarantees for nondiscrimination of individuals with HIV/AIDS, privacy related to medical treatment, confidentiality of information and data protection in 2012 (OHCHR, 2012, p. 23).

From the UN perspective, participation, especially participation of women, in the monitoring of public policies and decision-making processes is necessary for the exercise of human rights. In this respect, for instance, OHCHR fulfilled a broad participatory process in Colombia with more than 3,300 rights-holders to collect their visions, expectations and recommendations on the right to consultation of indigenous peoples and the concept of free, prior and informed consent, with the result of enhanced dialogue between indigenous peoples and state authorities at the local level (OHCHR, 2012, p. 25).

Other important tools to fight against discrimination are information-sharing and awareness-raising on global resources. OHCHR's global campaign, which is entitled as 'Let's Fight Racism', represents a good example. The campaign aimed to highlight stereotypes, challenge perceptions, encourage discussion and change behavior. Images of people of different racial and ethnic backgrounds were used on postcards, videos, internet and social media platforms and were accompanied by the slogan, 'More than meets the eye'. The campaign was used to conduct a multilingual social media campaign in the lead-up to the International Day for the elimination of racial discrimination in 2012 (OHCHR, 2012, p. 28).

This is a fact that the process of fighting with discrimination has not been easy. Breaches in the full and effective implementation of international obligations in the field of nondiscrimination and equality still exist in international arena (OHCHR, 2012, p. 29). As indicated in 2012 OHCHR report:

Reaching international consensus on antidiscrimination issues continues to be a challenge to the work of the Office, although the High Commissioner and her staff

aim to address this challenge through advocacy efforts and professional and effective support provided to Member States, mechanisms and treaty bodies (p. 29).

Despite the challenges of the implementation level, nondiscrimination efforts are so significant within the contexts of human rights, order, development and peaceful coexistence.

#### **4.2.2. Impunity and The Rule of Law**

The process of rule of law is composed by a set of institutions, laws and practices against the arbitrary exercise of power (OHCHR, 2007, p. 45). The concept of democracy becomes effective with the rule of law, which provides availability of accountability mechanisms. Promoting respect for democracy and the rule of law, combating impunity and strengthening accountability for human rights violations could be implemented by the UN as a means to promote and protect human rights (OHCHR, 2012, p. 32). Without democracy and the rule of law, gross violations of human rights and widespread suffering are unavoidable (OHCHR, 2012, p. 30).

It is very crucial that ensuring that those who commit human rights violations do not go unpunished. It can be said that this is an essential step in the restoration of the rule of law. Transitional justice is necessary when addressing the consequences of conflict or repressive rule. From OHCHR perspective, transitional justice provides “a framework for the rights to justice, truth, reparations and guarantees of non-recurrence”. Such frameworks provide for a comprehensive approach which enables combating impunity and ensuring accountability for past human rights violations, redress for victims and broader institutional reform (OHCHR, 2012, p. 30). At the global level, OHCHR promotes the development of relevant international norms and standards, collects good practices, elaborates guidance tools and carries out capacity-strengthening activities in relation to the rule of law. At the national level, OHCHR contributes to the development of rule of law-based justice systems with normative guidance, technical advice and capacity-strengthening activities (OHCHR, 2012, p. 32).



Changes in the national laws, policies and institutions are effective methods for the promotion of the rule of law. In this regard, OHCHR has made contributions to states' regulations of legislation on torture, death penalty, legal aid and independence of judiciary, freedom of opinion and expression, children rights, human rights defenders and journalists. For instance, in Thailand, OHCHR enabled to reduce the scope of application of the death penalty through consistent advocacy and technical assistance therefore, the Government withdrew its interpretative declaration regarding article 6 of the International Covenant on Civil and Political Rights after an amendment of the criminal code which stipulated that the death penalty should not be imposed on minors. Another example is that, Kyrgyzstan Parliament approved amendments to the criminal code and the code of criminal procedure in 2012, which brought the definition of torture in closer compliance with international law (OHCHR, 2012, p. 33).

With respect to supporting legislation on legal aid and independence of judiciary, in Sierra Leone, the Human Rights and Rule of Law Section of United Nations Integrated Peace-building Mission in Sierra Leone (UNIPSIL) supported the Parliament on passing a Legal Aid Law, which established an independent legal aid body to provide free legal advice and representation to the underprivileged (OHCHR, 2012, p. 34). In addition, for the protection of human rights defenders and journalists, in Mexico, the Law for the Protection of Human Rights Defenders and Journalists was adopted by Congress, which entered into force in June 2012, as a result of concerted advocacy efforts undertaken by civil society and technical assistance provided by OHCHR. This law created a National Mechanism for the Protection of Human Rights Defenders and Journalists (OHCHR, 2012, p. 34). An indirect success of OHCHR is related to the promotion of legislation on children's rights. OHCHR increased regional awareness on alternative care for institutionalized children through the publication and dissemination of a study on the Rights of Vulnerable Children under Three: Ending their Placement in Institutional Care including a human rights-based approach to alternative care for children in institutions in Central and Eastern Europe (OHCHR, 2012, p. 34).

Human rights education, human rights action plans, democracy and elections, NHRIs are other fields of concern of the UN with regards to the promotion of impunity and the

rule of law (OHCHR, 2012, p. 37). Human rights education is a crucial means to create and to raise awareness on the human rights issues. In this context, in 2012, OHCHR continued its efforts to consolidate the Human Rights Masters Programme in the Russian Federation, building on the achievements reached during the first pilot year (OHCHR, 2012, p. 36). In addition, concerning human rights action plans, OHCHR assisted national authorities in their efforts for elaborating human rights action plans that are in compliance with international human rights standards in Chad, Honduras, Lebanon and Paraguay (OHCHR, 2012, p. 34). Democracy and elections are essential instruments for the exercise of human rights and the rule of law. In this respect, OHCHR supported national authorities to strengthen national institutions and national capacity in order to ensure free and fair elections and respect of human rights so, for example, in Angola, OHCHR contributed to the peaceful elections in 2012 (OHCHR, 2012, p. 37).

With respect to combat impunity and promote the rule of law, NHRIs and Ombudsperson institutions are essential, which could ensure compliance by states of their human rights obligations. For this purpose, OHCHR supported the process, including the provision of legal advice to national authorities and civil society on applicable human rights standards and relevant good practices. NHRIs or Ombudsperson institutions were established in Côte d'Ivoire, Iraq, Niger, Pakistan, Republic of Moldova, Sudan, Uruguay and Zimbabwe. In the Central African Republic, Chad, the Democratic Republic of Congo, Guinea, Haiti, Madagascar and Yemen, OHCHR collaborated with other partners to provide advice and assistance in drafting laws to establish NHRIs or Ombudsperson institutions (OHCHR, 2012, p. 38).

Another initiative under the title of impunity and the rule of law is to support transitional justice processes and mechanisms, which includes truth-seeking initiatives, judicial accountability mechanisms, legal reforms and reparations programmes. In this respect, in November 2012, together with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the UNDP Regional Centre in Cairo, the Office co-organized a regional consultation on transitional justice, which helped raise awareness about international principles and standards among

stakeholders engaged in transitional justice initiatives in the Middle East and North Africa region (MENA) (OHCHR, 2012, p. 40). In Nepal, OHCHR supported to raising awareness on transitional justice through the October 2012 release of the Nepal Conflict Report, which included documents and analysis of serious violations of international law that occurred, during the 1996-2006 conflict (OHCHR, 2012, p. 41).

In respect to impunity and the rule of law, there should be more visible and effective advocacy works for the mandatory inclusion of commitments to combat impunity and the promotion and protection of human rights in peace mediations, negotiations and agreements. The Declaration on the rule of law at national and international levels adopted by the General Assembly in September 2012 constitutes a good advocacy tool in this regard, which will require adequate follow-up to ensure implementation of individual pledges made by member states. At the national level, there are still inefficiencies in securing clear political commitments from states to counter impunity and ensuring their implementation through effective legislation and policies. OHCHR should increase its advocacy structure and capacity to respond to calls for technical assistance and the provision of expert legal advice (OHCHR, 2012, p. 43).

#### **4.2.3. Poverty and Economic, Social, Cultural Rights**

The protection and promotion of human rights requires a special sensitivity in the matter of poverty. Poverty brings along inequality, inaccessibility and incapability in the name of exercise of economic, social and cultural rights. Therefore, the promotion and protection of economic, social and cultural rights become much more difficult and they are perceived as insignificant, because of necessity of vital needs in the first phase. As development level increases, implementation of human rights becomes better as well. For this reason, the UN seeks to support national and international development policies and economic and social programmes.

The UN aims to integrate human rights within national poverty reduction strategies. In this context, for example, OHCHR collaborated with the Ministry of Justice and the UN Country Team (UNCT) to include human rights and gender perspectives in the National

Economic and Social Development Programme for 2013-2015 in Niger. Regional practices are also significant for awareness-raising on the issue of economic, social and cultural rights. In this context, with a regional seminar organized by OHCHR in Bujumbura in April 2012, 35 representatives from NHRIs in the Central African region increased their knowledge and capacities on a wide range of topics related to economic and social rights. Therefore, these human rights institutions achieved to influence laws and policies in their respective countries and undertake effective monitoring of economic and social rights in their work as they do for civil and political rights. Similarly, in June 2012, an OHCHR workshop contributed to strengthen the knowledge and capacity of NHRIs from Djibouti, Ethiopia and Tanzania in order to monitor economic, social and cultural rights (OHCHR, 2012, p. 47).

On the other hand, as an example of concerning poverty, Yemen is facing large-scale displacement, civil conflict, political instability, food insecurity, high food prices, endemic poverty, a breakdown of social services, diminishing resources and influxes of refugee and migrants. In 2013, WFP is aiming to provide almost 5 million people in 16 governorates with food assistance and is working to build communities' resilience. In 2012, WFP conducted a Comprehensive Food Security Survey which found that more than 10 million people—almost half the country's population—either hungry or on the edge of hunger. The 2012 survey results uncovered an alarming decline in Yemen's food security situation and nutritional status since the previous survey thus, in response, WFP scaled up its assistance in 2013 to ensure that the most food-insecure populations are receiving the assistance they need (WFP, 2013).

As an example of international initiative, in 2012, the Social Forum of the Human Rights Council brought together over 30 experts and activists from around the world to discuss the theme of People-Centered Development and Globalization. The Forum included several action-oriented recommendations with regard to democratic governance, participation and social movements, financing of development, the global partnership for development and sustainable development in which participants called for a development paradigm based on the principles of human rights, including the right to development, equality, sustainability and solidarity and made specific

recommendations in the context of globalization and improved governance, including at the global level (OHCHR, 2012, p. 50).

On the other hand, deeply entrenched resistance to human rights positions remain in many intergovernmental and inter-agency forums as a challenge within the poverty reduction and promotion of economic, social and cultural rights (OHCHR, 2012, p. 54). From OHCHR's perspective, highlighting the instrumental importance and empirically verifiable results of a human rights-based approach is an important part of a successful strategy (OHCHR, 2012, p. 54).

#### **4.2.4. Migration**

Migration is one of the most conspicuous topics within human rights discourse. It has a multidimensional structure in the name of its causes and consequences, which could include political, economic and social dynamics at the same time. Because of increasing human mobility, its effects have become more distinctive in international arena therefore national, regional and international responses are required in the framework of human rights discipline. In this respect, OHCHR aims to create respect for internationally guaranteed human rights of all migrants, protect them against abuse and fulfill their rights to enjoy a safe and dignified life (OHCHR, 2012, p. 58).

In its resolution 2000/48, OHCHR requested the Special Rapporteur to include in his work schedule a programme of visits with a view to improving the protection afforded to the human rights of migrants. These visits provide a direct dialogue with the Government concerned and representatives of civil society, to understand better the situation prevailing in that country and to enhance his understanding of the State and the evolution of the national legislation from the perspective of international human rights norms, taking into account the social, political and historical context in each country such Greece, Turkey, Albania, Italy etc. (OHCHR, 2013).

In addition, at the international level, in March 2012, OHCHR held an expert meeting on the subject of "Human Rights at International Borders: Exploring Gaps in Policy and

Practice”, which identified borders as a site of significant human rights violations against migrants, including arbitrary detention, which are perpetrated by state and non-state actors (OHCHR, 2012, p. 58).

At the regional level, OHCHR has provided technical assistance to the European Agency for the Management of Operational Cooperation at the External Borders of Member States of the European Union (FRONTEX) in developing human rights training materials for border guards, which helped to increase awareness of guards on the human rights-based approach to migration (OHCHR, 2012, p. 59).

At the national level, OHCHR has assisted governments, NHRIs and civil society to draft and revise relevant legislation in line with international standards on the human rights of migrants. For example, while the development of a specific law on migrant domestic workers was hindered by changes in the leadership of the Lebanese Ministry of Labor, the Regional Office for the Middle East contributed to the development of a Code of Conduct for recruiting agencies working with migrant domestic workers in Lebanon and then, through a number of awareness-raising activities, the knowledge of recruiting agencies regarding international human rights standards and the provisions of the endorsed Code of Conduct was increased (OHCHR, 2012, p. 59).

As another UN organ concerning migration, since the beginning of 2011, UNDP, in close collaboration with the International Organization for Migration (IOM), is implementing a pilot project on Mainstreaming Migration into National Development Strategies in four countries – Bangladesh, Jamaica, Mali, and Moldova. The two-year pilot project is funded by the Swiss Agency for Development and Cooperation (SDC). The project aims to enable four pilot countries to comprehensively address migration and development interlinkages in their national policies and programmes, and to create sustainable consultation and monitoring mechanisms within government and with other relevant stakeholders in society (UNDP, 2012).

In addition, human trafficking is another problematic area related to migration. The UN has important initiatives in order to prevent human trafficking all over the world. For

instance, in Senegal, OHCHR contributed to the revitalization of the National Cell on the fight against trafficking in persons, especially women and children with regular meetings, a communication plan and a number of workshops to raise awareness and train stakeholders, including from the private sector, on the problem of trafficking and the concomitant human rights violations (OHCHR, 2012, p. 60).

In spite of these initiatives, some challenges exist in respect to migration. Generally, there is no comprehensive global system to debate and manage migration and human rights at the international level. In addition, there is little global consensus on how to address the complex dynamics of international migration. In this direction, “as the complexity of human mobility increases and traditional distinctions between voluntary and forced migration become less clear, it is essential to address the rights of all migrants, regardless of their legal status, in a holistic way” (OHCHR, 2012, p. 62).

#### **4.2.5. Violence and Insecurity**

Violence and insecurity are incontrovertible facts in current international relations literature. According to OHCHR (2012) report,

insecurity emerges when a government, faced with conflict and violence (be it political, social, economic, or generated by organized crime), cannot or will not ensure the protection of its citizens, organizations and institutions against threats to their well-being and the prosperity of their communities. Such threats may come from the State itself or from non-State actors. In several countries, organized crime, trafficking, civil unrest and terrorism have supplanted armed conflict as the main sources of violence and insecurity. Natural disasters are an additional source of insecurity (p. 64).

As other sources of insecurity, like armed conflict, social and criminal violence causes widespread human rights violations with extrajudicial killings, torture and ill-treatment, disappearances and arbitrary detention (OHCHR, 2012, p. 64). In order to prevent violence and insecurity, OHCHR has taken a rights-based approach to create an environment in which each person feels secure and protected in their daily lives (OHCHR, 2012, p. 66). For instance, the UN supports a number of programs that address international violence against women, which range from large-scale interagency

initiatives to smaller grants and programs that are implemented by a range of partners by ratifying multilateral treaties, adopting resolutions and decisions, and supporting U.N. mechanisms and bodies that focus on the issue (Blanchfield, 2011, p. 1).

In 2012, in respect to violence and insecurity, OHCHR gave priority to “pressing human rights issues related to situations of international or internal armed conflict; humanitarian crises, including those in the aftermath of both manmade or natural disasters; situations where social, economic and criminal violence is prevalent; and societies struggling with terrorism” (OHCHR, 2012, p. 66). There are many practices for removing violence and insecurity. For example, in Mexico, OHCHR provided technical assistance for the Federal Congress’ the General Law on Victims, with the aim of protecting the rights of victims of crimes and human rights violations, and their direct relatives, and mandating the establishment of a National System for the Attention to Victims (OHCHR, 2012, p. 68).

Violence could appear in a different ways. One of the most common kinds of violence is sexual and gender-based violence. In this context, in Côte d’Ivoire, the national strategy on the fight against sexual and gender-based violence was reviewed and a plan of action was adopted by the government in July 2012, with the support of the United Nations Operation in Côte d’Ivoire (ONUCI). In a similar vein, in El Salvador, a protocol for the investigation of femicide was developed with the contributions of OHCHR (OHCHR, 2012, p. 70).

In the process of dealing with violence and insecurity, the main challenge is “to engage with the UN and the broader humanitarian community to ensure that human rights and humanitarian responses are seen as co-existing and mutually reinforcing and that the protection of human rights is placed at the center of humanitarian action”. Precautions to stop violence should not violate human rights even if they are indirect or aims to humanitarian purposes. Therefore, there is a need for increased planning and enhanced rapid deployment capabilities in order to fully engage and respond to human rights crises (OHCHR, 2012, p. 76).



All these non-coercive practices caused the realization of some lessons with respect to the protection of human rights through global governance:

- 1) National frameworks compatible with human rights principles are essential for the protection of human rights
- 2) Public participation and diverse social partnerships are vital for the protection of human rights
- 3) Negotiation and consensus-building assist the transformation of social and legal practices for the protection of human rights
- 4) Access to information and transparency contribute to the protection of human rights
- 5) Public education and awareness-raising on human rights strengthen efforts social and legal practices
- 6) Strengthening accountability of public officials is an important contributor to human rights protection
- 7) Addressing inequalities requires a focus on the marginalized and vulnerable
- 8) Efforts to protect and promote human rights are essential components of the transition from conflict to peace (OHCHR, 2007, pp. 4-7).

All the entire thematic priorities above have a great importance in the UN human rights protection and promotion agenda. Among these priorities, the rule of law principle could be distinguished with its essential role in realization of the rest of the priorities. The rule of law helps implementation of other principles and prevents arbitrary practices. In other words, achieving respect for the rule of law is fundamental to maintenance of a durable peace in the aftermath of conflict, to the effective protection of human rights, and to sustained economic progress and development (The United Nations, 2013). There is a high consideration on the rule of law within the UN, as stated in the Report of the Secretary General to the Security Council:

For the United Nations, the rule of law refers to a principle of governance in which

all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency (Annan, 2004).

Generally, rule of law implementations support the development, promotion and practice of international norms and standards in most fields of international law. The principle of rule of law contributes to pave the way for the exercise of other thematic priorities of human rights protection, namely discrimination, poverty, migration and violence.

By considering all these non-coercive practices of the UN, this could be observed that mutual interaction between societies, institutions and mechanism is very important in respect to exercise of human rights. The governance of international humanitarian order is supported and realized with the contributions of such non-coercive practices all around the world.

## CHAPTER 5

### CONCLUSION

Contemporary international relations involve multiple variables affecting multifaceted relations among various actors. Order among all the actors in such an environment remains to be a challenge. In this respect, providing peaceful coexistence requires not only norms and standards of behavior but also certain institutional mechanisms and regulations. Thereby, the state is not considered as the only actor. There are other actors in addition to the state, especially international organizations, which are functional in the governance of international humanitarian order. In contrast to the focus on states only, the emphasis on individuals and human beings has become increasingly significant in maintaining humanitarian order. From this point of view, a liberal stance could be observed in governance of international humanitarian order.

To the extent that the concept of governance refers to institutions, procedures, norms, rules and legal regulations to organize inter-state relations through cooperation, it is currently considered to be indispensable for a well-functioning international society. In fact, the concept of governance is not new and has evolved over time. After the end of the Cold War, governance concept has come to encompass various political, economic and administrative reforms, and led to the idea of “good governance” as a consequence of changes in the international system. Within the context of sovereign states, good governance denotes accountable and transparent political and institutional processes with public participation. A similar understanding of good governance is now commonly accepted in IR context. In this respect, rise of global governance’s to prominence was mainly triggered by the end of the Cold War, together with the rise of globalization, which caused profound changes in world politics by creating a great economic, political, and social interdependence, and raising an enhanced awareness about necessity of coordination and cooperation for problem-solving in world politics.

At the same time, security conception and challenges have also changed after the Cold War era, in parallel with the rising globalization. In contrast to traditional IR

understanding, human security has become more important than state security and the concepts like democracy, human rights, rule of law, international norms have emerged as the fundamental concerns of international society. In other words, human welfare-based perspective replaced state welfare-oriented understanding, whereby a number of actors of international society have agreed on the promotion and protection of certain values. From a general point of view, the concept of order has gained prominence as a prerequisite for the realization of all other international values, since order is considered to facilitate the implementation of various regulations and mechanisms in respect to political, economic and social developments.

From the global governance perspective, international humanitarian order is the desired aim, in which humanitarian affairs are concerned. In this respect, governance process appears to be a method to provide a humanitarian order that intends to protect, amend and dignify the human life. In this framework, the governance of international humanitarian order involves humanitarian actions when a violation occurred, as well as the precautions taken to prevent violations on human life and dignity. These actions should include non-coercive procedures to ensure compliance with international law and norms, and respect for human rights. Within the scope of universal human rights understanding, every human being, without discrimination, deserves legal protection against violations of their human dignity in national, regional and international level. Therefore, respect for human rights by promotion and protection, is the main principle of today's good governance understanding. At the domestic level, states are obliged to provide an environment to their citizens, in which the exercise of human rights is possible and respected. At the global level, supranational organizations are the main mechanisms to support national policies and programs in that respect.

One of the main claims of this thesis is that the concepts of global governance, humanitarian order, human security and human rights are interrelated and the UN constitutes an intersection point for them. In order to justify main arguments of the thesis, global governance and human security are used as conceptual framework in the first chapter. As the major aim of the thesis is to examine the theoretical and practical dimensions of the governance of international humanitarian order and then, to examine

the non-coercive human rights practices of the UN as a direct part of the international governance, the relations between international humanitarian order and the UN, and between human rights and the UN are discussed in the second and the third chapters. The second chapter referred to order perceptions and the evolution of international humanitarian order with current tools used by the UN in order to maintain international humanitarian order. The third chapter's focus area was the place of human rights understanding within the UN structure. To put conceptual framework into practical perception, the fourth chapter issued the non-coercive practices of the UN for the protection of human rights with human rights mechanisms and thematic priorities of the UN.

As a whole, the UN has become a leading actor for the governance of international humanitarian order, particularly after the end of the Cold War. The UN acts as the legitimate coordinator of global dynamics by developing mechanisms for promotion and protection of human rights and adopting human security approaches. Currently, human rights mechanisms aim lasting solutions to human rights challenges. In this direction, the UN is the only international organization that approximates universality and has considerable degree of moral authority over the states.

More specifically, although there are considerable numbers of human rights mechanisms at the international level, the UN is distinguished from other international actors in terms of its comprehensive and influential structure in relation to human rights protection. Not only it includes charter-based and treaty-based human rights bodies, it also oversees legal regulations, conducts technical supports and awareness-raising activities. Moreover, the UN undertakes non-coercive measures to prevent human rights violations under the thematic practices as discriminations, impunity and the rule of law, poverty, migration, and violence. During all these processes, UN also provides for the coordination and cooperation between actors at national, regional and international levels.

All such practices of the UN remain fundamental for peaceful coexistence. Nonetheless, there exist points of concerns with regards to the governance of international humanitarian order. One of the main sources of distress is that global governance mechanisms mainly include representation of the interests and values of strong states within international system at the expense of weak states. Thus, there exists a lack of confidence regarding the accountability of global institutions and the nature of international justice. Therefore, inclusive structure of the governance of international humanitarian order remains a challenge. As observed in 2011, within the case of Palestine's membership to UNESCO and following the United States' cutting off funding by acting under a legal requirement to cut United States funds to any UN agency that recognizes a Palestinian state, United States as a powerful actor in governance of international humanitarian order made a crucial decision on its own. Suchlike United States' authoritative attitudes under the UN umbrella and in global governance process have become a serious concern for international society.

In addition, within the UN structure, debates with respect to the permanent five members of the Security Council with veto powers (United States, China, Russia, France and United Kingdom) are still continuing. Distrust and confusion prevails regarding the Security Council decisions in that international society remain skeptical to the powerful states' sensitivity to international values as opposed to their national interests. In this respect, coercive actions such as humanitarian armed interventions remain to have dubious bases of legitimacy and cannot alone meet the challenges of international humanitarian governance. Thus, it is not surprising that there are many debates within the UN, especially with regards to the use of force for humanitarian purposes. According to the UN Charter, unilateral use of force by states is banned except for self-defense and breaches of international peace and order. However, powerful states have often violated the principle of non-use of force, and thus it is questioned that self-interest rather than the humanitarian purposes remains to be the main guide, like in the case of the invasion of Iraq by the United States in 2003 without the UN Security Council resolution providing legitimacy. Indeed, this particular military intervention can be singled out as the most recent case, which damaged the credibility of governance of international humanitarian order. Other incidents, which

have discouraged the efforts and understanding of international governance, include unsuccessful peacekeeping operations mostly in 1990s like Somalia, Rwanda and Bosnia. Today, serious problematic issues within peacekeeping processes continue, including peacekeeper bribery, theft, unauthorized sales of equipment, accounting fraud and other malfeasance in places like the Democratic Republic of Congo, Sudan and the Balkans. Many quarters believe that peacekeeping missions will become more effective if the UN becomes more attuned to corruption as a business-critical issue.

Despite these shortcomings regarding implementations, the UN appears to be an unquestionable institution, which is on top of the list in terms of its contribution to the governance of humanitarian order. The governance of international humanitarian order refers to the conscious management of systemic concerns within a peaceful coexistence of actors. In theory, it should be based on the principle of collective participation and equality but in practice, it has not been easy to achieve. Since some states have more voice in terms of management of international politics and order due to their relative economic, political and military power, they also have the power to shape the order. As long as imbalances and power struggle continue between states, these concerns seem to remain in this field.

In the first chapter of thesis, the research agenda of global governance with several questions was mentioned such as: “what forms of social regulation do exist at the global level? Where do global norms, rules and standards come from? How are they constructed, interpreted, implemented and adjudicated? What relationships exist between rule maker and rule takers? What are the consequences of global norms, rules and standards? Who benefits? Who loses?”. Regarding these questions, some comments could be added. At the global level, operationalizing ideas could be difficult to the extent that there would be a more complex and comprehensive puzzle to solve. When it comes to governance at the global level, there exist a number of problems that involve a variety of actors. Although the UN and other international organizations are responsible for making regulations and supervision of them, their implementation remains largely dependent on regional and domestic actors. Thus, expectations for their functionality in terms of governance should be reasonable. Nevertheless, today, it can be said that there are inclusive and individual-based social regulations in the international arena. At the

same time, it also appears that global norms, rules and standards are mostly compatible with national interests of powerful actors. Notwithstanding, in the context of human rights, the regime in existence reveals interests of all humanity. Having been formulated through and after a number of unfortunate human suffering, these global norms, rules, and standards have an undeniable moral aspect that constitutes their humanitarian dimension.

One of the important concerns in discussions of humanitarian order appears to be who benefits and who loses in the international system from its governance. The simplest answer to this question would be “powerful wins, weak loses”. It is expected that the main concern of global governance process is the prosperity of all humanity. However, today’s course of events is about specifically powerful ones’ prosperity. Rule makers are more prosperous than rule takers.

In conclusion, the process of governance of international humanitarian order is an essential development in contemporary international relations. A meaningful peaceful coexistence cannot be divorced from respect to human life and dignity. In today’s international relations context, the UN shows this respect and appears as an effective international actor in the name of humanitarian affairs. With respect to its human rights-based structuring and its practices for the promotion and protection of human rights, the UN is an essential organization. As long as the UN exists as an integrative platform for the states, the promotion and protection of human rights within global governance of international humanitarian order would improve systematically.



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