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Relativism and Universalism of Human Rights and Regional Protection

Introduction

The international system of human rights is organized around both a universal and a regional system of protection. This article provides guidance on the universal and the regional level of human rights understood as a single system. This might appear as a problematic relation that raises philosophical puzzles with regard to how to reconcile rights protection of local practices under a universal framework of human rights. The difficulty consists of the following: if it is the case that there is a link between prescriptive relativism and regional human rights, then regional conventions must show how to reconcile context-specific protections with the rights enshrined in the Universal Declaration of Human Rights (UDHR). This is not an easy relation to tame. Indeed, already in 1947, during the drafting of the UDHR, the American Anthropological Association observed that the document reflected values only of the Western world. Among UN members of that time, forty-eight states voted in favor, none voted against, and eight abstained (six from the Soviet bloc plus South Africa and Saudi Arabia). On 10 December 1948, with the General Assembly resolution 217A (III), UN Document A/810 at 71, the UDHR was adopted. The purpose of the UDHR was to set a springboard of inviolable rights in the wake of the Second World War. The UDHR was followed by the creation of several conventions and treaties safeguarding a number of specific areas, such as women’s rights, children, workers’ rights, and so on. The UDHR was shortly anticipated by the \*\*American Declaration of the Rights and Duties of Man\*\* (cited under \*Online Institutional Resources: Americas\*) (2 May 1948), a regional declaration with the purpose of strengthening solidarity within the Organization of American States (OAS). Furthermore, on the European front, in 1949 the Council of Europe was founded, and in 1950 it released the European Convention on Human Rights (ECHR). The first human rights treaty after the Second World War was of a regional scope. In addition to the regional protection, the recently introduced Universal Periodic Review system represents an innovative cooperative process among all 193 states and the Human Rights Council. From the genesis of the modern system of human rights protection presented earlier in this section, it follows that the international and the regional levels stand in a biunivocal relation, one where the \*\*American Declaration of the Rights and Duties of Man\*\* has influenced the UDHR and the latter has contributed to shaping the formulation of a regional convention as, primarily, the ECHR.

Introductory Works

For Nickel [2006](Eight#Ref0), human rights are primarily the “rights of the lawyers” and not just “the rights of the philosophers.” Nevertheless, as James Nickel and many others recognize, human rights remain legitimate claims even when governments are not willing to recognize them. Churchill [2005](#Ref1) notices how this is due to the moral component of human rights and to its compatibility with cultural variety. Yet, as Goodale [2009](#Ref2) notices, the risk is always latent on superimposing a comprehensive, mostly Western, conception of human rights by use of apparent universal language. Is there the possibility of identifying intercultural overlapping categories? This is the question answered in Renteln [1990](#Ref3). Indeed, for some scholars, such as in Shelton and Carozza [2013](#Ref4), if the overlapping between universal and contextual legal conceptions is recognized, the tension between the international and the regional levels disappears.

Churchill, Robert Paul. *Human Rights and Global Diversity*. Basic Ethics in Action. Upper Saddle River, NJ: Pearson Education, 2005. [ISBN: 9780130408853]

This introductory work defends the idea of a compatibility between universal human rights norms and cultural and value pluralism. The book shows that there is no inherent contradiction between the universality of the interests protected by human rights and the worthiness of values negotiated by cultures.

Goodale, Mark. *Surrendering to Utopia: An Anthropology of Human Rights*. Stanford Studies in Human Rights. Stanford, CA: Stanford University Press, 2009. [ISBN: 9780804762120]

This monograph is a significant criticism of the “neoliberal” approach to human rights conducted from an anthropological perspective. Neoliberalism is seen here as marking the end of the welfare state model, and human rights are manipulated for the sake of the privatization of public interest.

Nickel, James W. “Eight Responses to the Relativist.” In *Making Sense of Human Rights*. 2d ed. By James W. Nickel, 168–184. Oxford: Blackwell, 2006. [ISBN: 9781405145343]

This is an excellently written introduction to the most-fundamental challenges that cultural relativism advances to human rights.

Renteln, Alison Dundes. *International Human Rights: Universalism versus Relativism*. Frontiers of Anthropology 6. Newbury Park, CA: SAGE, 1990. [ISBN: 9780803935051]

Arguing from a social-anthropology perspective, the author claims that within cultural plurality it is still possible to determine cross-cultural category equivalents to rights. Indeed, cross-cultural investigation, when conducted on empirical bases, shows that there is widespread share of human rights standards.

Shelton, Dinah L., and Paolo G. Carozza. *Regional Protection of Human Rights*. 2d ed. Oxford: Oxford University Press, 2013. [ISBN: 9780199301621]

This work represents the first comprehensive attempt to investigate the existing regional systems of human rights protection. Following legally sophisticated analysis, the book also considers the prospects of growth of new regional systems in the Middle East and Asia. Now in its second edition, it is still a valuable resource as a textbook for courses at the graduate and research levels.

Anthologies

Collections of essays can be separated into \*Theory-Oriented Contributions\* and \*Regional-Focus Analyses\*. Treatment of human rights relativism is often presented within book sections. The references in these two subsections represent a selection of the most-comprehensive anthologies on cultural diversity and regional human rights protection.

Theory-Oriented Contributions

Anthologies with a theory-oriented focus tend to reconstruct concepts and debate of general principles. Holder and Reidy [2013](#Ref5) formulates some of the crucial questions on human rights, and contributors are asked to provide an answer. Other early-21st-century works, such as Cruft, et al. [2015](#Ref6), prefer to concentrate on foundational issues or on questions concerning the classical divide between law and politics. A classical legally oriented collection is Alston and Goodman [2012](#Ref7" \o "Alston, Philip, and Ryan Goodman, eds. International Human Rights. Oxford: Oxford University Press, 2013. [ISBN: 9780199578726]), which combines protection mechanisms both for international and regional human rights.

Alston, Philip, and Ryan Goodman, eds. *International Human Rights*. Oxford: Oxford University Press, 2012. [ISBN: 9780199578726]

This is a classic book reference to understand the international system of human rights. It is mainly focused on the international system, but it includes sections on regional protection and the challenges of relativism and cultural conflict for human rights universalism.

Cruft, Rowan, S. Matthew Liao, and Massimo Renzo, eds. *Philosophical Foundations of Human Rights*. Philosophical Foundations of Law. Oxford: Oxford University Press, 2015. [ISBN: 9780199688630]

This essay collection gathers an impressive number of contributions (thirty-eight), some of which are coupled with confronting theses. Highly recommended for advanced students and researchers.

Holder, Cindy, and David Reidy, eds. *Human Rights: The Hard Questions*. Cambridge, UK: Cambridge University Press, 2013. [ISBN: 9781107003064]

This edited book includes a mixed assortment of scholars with expertise in legal and philosophical research on human rights. Definitively an interdisciplinary undertaking, it covers core issues on the nature of human rights, their status, and early-21st-century challenges. The book concludes with an afterword by the editors.

Regional-Focus Analyses

Other types of anthologies can be grouped as addressing investigations that are more regional in focus. Anthologies with a regional interest concentrate mostly on case-law analysis and local cultural patterns.Shelton [2010](#Ref8) discusses a large number of case laws mostly by the European Court of Human Rights (ECtHR), but also by the European Union (EU) and other regional organizations. A more interdisciplinary approach is adopted by Christoffersen and Madsen [2013](#Ref9), which also takes a look into the political aspects of the ECtHR judicial practices. Moving to “the South” of the world, William [2009](#Ref10) collects non-Western legal contributions to propose an alternative view of standard Western universalism. This reading is supplemented by Cowan, et al. 2001, in which a wide comparative approach confronting cases from an anthropological perspective is included.From a more comparative perspective, Cerna 2014 covers three regional human rights systems. Similarly, on the comparative side, the joint publication by the Council of Europe / European Court of Human Rights and the Inter-American Court of Human Rights (IACtHR), *[Dialogue across the Atlantic](#Ref13" \o "Council of Europe/European Court of Human Rights, Inter-American Court of Human Rights. *Dialogue Across the Atlantic: Selected Case-Law of the European and Inter-American Human Rights Courts[http://www.echr.coe.int/Documents/Dialogue_Across_Atlantic_ENG.p)* (Council of Europe / European Court of Human Rights and Inter-American Court of Human Rights 2015), collects relevant mainstream case law shaping up the jurisprudence of the two institutions.

Cerna, Christina M., ed. *Regional Human Rights Systems*. Library of Essays on International Human Rights 5. Farnham, UK: Ashgate, 2014. [ISBN: 9781409439110]

This collection of essays is a good mapping of the main existing mechanisms of regional protection and their evolution and strengthening of democratic enforcement of rights. The book includes also a treatment of the Association of Southeast Asian Nations (ASEAN) Intergovernmental Human Rights Commission.

Christoffersen, Jonas, and Mikael Rask Madsen, eds. *The European Court of Human Rights between Law and Politics*. Papers presented at the Copenhagen Conference on the European Court of Human Rights, held 21–22 March 2009 at the University of Copenhagen, Copenhagen. Oxford: Oxford University Press, 2013. [ISBN: 9780199686445] [class:conference-proceeding]

An interesting interdisciplinary collection of political and legal essays covering the main problems and legal trajectories affecting the most proactive international court in the world. The contributions draw conceptual links with the civil society as well as interrogate the constitutional versus international (interstate problem resolution) role of the court.

Council of Europe / European Court of Human Rights[non-personal], and Inter-American Court of Human Rights[non-personal]. \**Dialogue across the Atlantic: Selected Case-Law of the European and Inter-American Human Rights Courts*[http://www.echr.coe.int/Documents/Dialogue\_Across\_Atlantic\_ENG.pdf]\*. Oisterwijk, The Netherlands: Wolff Legal, 2015. [ISBN: 9789462402805]

This joint publication by the Council of Europe and the IACtHR is freely accessible online, and it represents a selection of cases up to 2014 both of the Strasbourg Court and the Inter-American Court of Human Rights. The book is also available in Spanish. The purpose is to conduct parallel comparison of the different jurisprudential methodologies of the two courts in advancing human rights protection.

Cowan, Jane K., Marie-Bénédicte Dembour, and Richard A. Wilson, eds. *Culture and Rights: Anthropological Perspectives*. Cambridge, UK: Cambridge University Press, 2001. [ISBN: 9780521793391]

Exploring the practical implications of day-to-day rights discussions, the authors present studies from different cultural contexts around the world, such as from Thailand, Botswana, and Nepal as well as France and Canada. This is a valuable contribution for a context-oriented understanding of rights from an anthropological point of view.

Shelton, Dinah L., ed. *Regional Protection of Human Rights*. Oxford: Oxford University Press, 2010. [ISBN: 9780199744749]

This is a superb collection of legal essays covering an impressive amount of case law from all regional human rights systems as well as the EU, the Organization for Security and Co-operation in Europe (OSCE), and states’ parliaments. It is an invaluable tool particularly for legal scholars and administrative personnel officers willing to investigate in detail the issue of regional protection.

Twining, William, ed. *Human Rights, Southern Voices: Francis Deng, Abdullahi An-Na’im, Yash Ghai and Upendra Baxi*. Law in Context. Cambridge, UK: Cambridge University Press, 2009. [ISBN: 9780521113212]

From the voice and perspective of four “Southern” jurists, the book aims at confronting the universalism of human rights with non-Western perspectives. Sudanese traditional values and modernist interpretations of Islam can either be views compatible with universalism or lead to skepticism of human rights.

International Law and Regionally Specialized Human Rights Journals

There is a burgeoning of journals on human rights law. The three subsections provide a limited selection of these, with an international and a regional focus.

International Law and International Human Rights Journals

The \*\**[European Journal of International Law](#Ref14" \o "*European Journal of International Law[http://www.ejil.org/]*.)*\*\* is a useful proxy for current research topics under debate in different legal fields. An important student-run journal is the \*\**[Harvard Law Review](#Ref15" \o "*Harvard Law Review*.)*\*\*. For a narrower focus on modern research on human rights, the \*\**[Human Rights Law Review](#Ref16" \o "*Human Rights Law Review[http://hrlr.oxfordjournals.org/]*.)*\*\* provides high-quality articles. Both the \*\**[Columbia Human Rights Law Review](#Ref17" \o "*Columbia Human Rights Law Review[http://hrlr.law.columbia.edu/]*.)*\*\* and the \*\**[Harvard Human Rights Journal](#Ref18" \o "*Harvard Human Rights Journal[http://harvardhrj.com/]*.)*\*\* are top-ranked journals with high-rank scores on scientific impact. For an overview of the human rights debate in francophone academia, one useful source is the \*\*[Journal Européen des Droits de l’Homme–European Journal of Human Rights](#Ref19" \o "*Journal européen des droits de l’homme - European Journal of Human Rights (J.E.D.H.-E.J.H.R.)[https://www.jurisquare.be/en/journal/jedh/index.html]*.)\*\*.

\**Columbia Human Rights Law Review*[http://hrlr.law.columbia.edu/]\*. [class:periodical]

This internationally and domestically focused journal publishes a wide range of human rights topics as well as dedicated symposia.

\**European Journal of International Law*[http://www.ejil.org/]\*. [class:periodical]

This is one of the leading journals in international law. It also publishes high-quality research articles in a variety of fields such as European Union (EU) law, trade law, criminal law, and human rights law.

\**Harvard Human Rights Journal*[http://harvardhrj.com/]\*. [class:periodical]

Founded in 1988, this journal covers a wide range of topics, and it hosts annual symposia on currently debated topics such as the impact of the international criminal court or the relationship between business and human rights.

\**Harvard Law Review*[http://harvardlawreview.org/ ]\*. [class:periodical]

A monthly student-run journal aimed at publishing legal scholarship on a broad range of current topics. This is an independent organization that is autonomous from the Harvard Law School.

\**Human Rights Law Review*[http://hrlr.oxfordjournals.org/]\*. [class:periodical]

This is a leading journal in the field of human rights law. It publishes highly ranked research both in the regional and international fields of human rights protection.

\**Journal Européen des Droits de l’Homme–European Journal of Human Rights*[https://www.jurisquare.be/en/journal/jedh/index.html]\*. [class:periodical]

This journal, commonly known as *J.E.D.H.–E.J.H.R.*, publishes comparative legal work on human rights in French on issues related to the UN, the EU, and the Council of Europe.

African Journals of Human Rights

For the African regional context, good sources are the \*\**[African Human Rights Law Journal](#Ref20" \o "*African Human Rights Law Journal[http://www.ahrlj.up.ac.za/]*.)*\*\*, the \*\**[South African Journal on Human Rights](#Ref21" \o "*South African Journal of Human Rights[https://www.wits.ac.za/sajhr/]*.)*\*\*, and the \*\**[African Journal of Legal Studies](#Ref22" \o "*African Journal of Legal Studies[http://www.brill.com/publications/journals/african-journal-legal-studies]*.)*\*\*.

\**African Human Rights Law Journal*[http://www.ahrlj.up.ac.za/]\*. [class:periodical]

A peer-reviewed journal that specializes in African issues and particularly human rights. It is published twice a year and is also available online.

\**African Journal of Legal Studies*[http://www.brill.com/publications/journals/african-journal-legal-studies]\*. [class:periodical]

As a distinguished, interdisciplinary, peer-reviewed journal on human rights in Africa, it aims to serve as a forum of debate for policymakers and to prompt critical reflection across the continent.

\**South African Journal on Human Rights*[https://www.wits.ac.za/sajhr/]\*. [class:periodical]

This is a leading journal of human rights and one of the oldest journals in South Africa, appearing three times per year. The journal is also open to legal-philosophy issues and interdisciplinary studies in addition to public law.

Asian Journals of International Law

The \*\**[Asian Journal of International Law](#Ref23" \o "*Asian Journal of International Law[https://www.cambridge.org/core/journals/asian-journal-of-international-law]*.)*\*\* and the \*\**[Chinese Journal of International Law](#Ref24" \o "*Chinese Journal of International Law[http://chinesejil.oxfordjournals.org/]*.)*\*\* publish relevant studies in regional contexts of human rights.

\**Asian Journal of International Law*[https://www.cambridge.org/core/journals/asian-journal-of-international-law]\*. [class:periodical]

This is a leading journal in the field of public and private international law in Asia. From time to time it publishes research articles and reviews on human rights in Asia.

\**Chinese Journal of International Law*[http://chinesejil.oxfordjournals.org/]\*. [class:periodical]

This is a well-ranked journal of international law published by scholars of the Chinese Society of International Law, in Beijing, and Wuhan University Institute of International Law, in Wuhan. It covers issues mainly concerning China, but with a view also to the region.

Online Lectures

A brief list of two among the most-significant lectures on human rights and regional values/protection available online. “[Human Rights and Asian Values](#Ref25" \o "Amartya Sen. *Human Rights and AsianValues[https://www.carnegiecouncil.org/publications/archive/morgenthau/254.html]*. Sixteenth Annual Morgenthau Memorial Lecture on Ethics and Foreign Policy, 25 May 1997.)” (Sen 1997) is a “must-read” text lecture for understanding the limits and danger of cultural oversimplification. For understanding the relationship between a regional legal culture and the development of international law, \*\*[The Contribution of Latin American Doctrine to the Development of International Law](#Ref26)\*\* by the International Court of Justice judge Antônio Augusto Cançado Trinidade comes as a useful insight from one of the top experts and practitioners in the field.

Cançado Trinidade, Antônio Augusto. \*The Contribution of Latin American Doctrine to the Development of International Law[http://legal.un.org/avl/ls/Cancado-Trindade\_IL\_video\_2.html]\*. Audiovisual Library of International Law. [class:videoRecording]

In this video lecture, Judge Cançado Trinidade explains how doctrine, one of the formal sources of international law, has been developed particularly by Latin American approaches affecting a certain development of international law.

Sen, Amartya. “\*Human Rights and AsianValues[https://www.carnegiecouncil.org/publications/archive/morgenthau/254.html]\*.” Sixteenth Annual Morgenthau Memorial Lecture on Ethics and Foreign Policy, 25 May 1997. [class:conference-paper]

In this extremely clear-minded lecture, Sen discusses the danger of oversimplification in so-called Asian values. The worry manifested by the Nobel Prize winner is that a monolithic view of cultures has too often served the purpose of justifying authoritarian governments, and that this is at odds with the plurality of traditions that characterizes Asia.

Online Institutional Resources

This selection of the main regional institutional organizations dedicated to the protection of human rights aims to present an overview of the main instruments of human rights.

Europe

The official website of the \*\*[Council of Europe](#Ref27)\*\* provides general information on the main intergovernmental organization whose \*\*[European Convention on Human Rights](#Ref28" \o "*European Convention of Human Rights[http://www.echr.coe.int/pages/home.aspx?p=basictexts]*.)\*\* (ECHR) is implemented by the \*\*[European Court of Human Rights](#Ref29)\*\*. The Council of Europe also has a nonjudicial mechanism for human rights defense, represented by the \*\*[Council of Europe Commissioner for Human Rights](#Ref30)\*\*. The official website of the \*\*[European Union](#Ref31)\*\* (EU) includes all information that is relevant to understanding institutional divisions and legal texts pertaining to the \*\*[EU Charter of Fundamental Rights](#Ref32" \o "*Charter of Fundamental Rights of the European Union (EU Charter)[http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm]*.)\*\*. Finally, from the homepage of the \*\*[Organization for Security and Co-operation in Europe](#Ref33" \o "*Organization for Security and Cooperation in Europe (OSCE)[www.osce.org]*.)\*\* (OSCE), it is possible to access policy documents of the organization.

\*Council of Europe[http://www.coe.int]\*.

This is the official website by the main organ of implementation monitoring of the judgments by the European Court of Human Rights (ECtHR) through its Committee of Ministers.

\*Council of Europe Commissioner for Human Rights[https://www.coe.int/en/web/commissioner]\*. [class:dataSet-database]

The Commissioner for Human Rights is a nonjudicial mechanism of supervision of human rights within the forty-seven member states of the Council of Europe.

\*EU Charter of Fundamental Rights[http://ec.europa.eu/justice/fundamental-rights/charter/index\_en.htm]\*. [class:dataSet-database]

This text, proclaimed as a declaration in Nice, France, in 2000, has become binding on EU states with the entry into force of the Lisbon Treaty in 2009. It gathers all freedoms and rights protected within the EU and its external relations.

\*European Convention on Human Rights[http://www.echr.coe.int/pages/home.aspx?p=basictexts]\*. [class:dataSet-database]

The official entry source to the resource documents of the ECHR and to other institutions of the Council of Europe.

\*European Court of Human Rights[http://www.echr.coe.int]\*.

This is an excellent online resource to understand the composition of the Strasbourg Court, set up in 1959. It is also possible to conduct a search of the judgments of the ECtHR (see \*HUDOC[http://hudoc.echr.coe.int/]\*).

\*European Union[https://europa.eu/]\*.

The EU is a major supranational political institution in Europe. Among its competences, there are also human rights protections.

\*Organization for Security and Co-operation in Europe[http://www.osce.org]\*.

The official website of the OSCE presents the structure of the organization for security and democracy in Europe. It has also a valuable online collection of documents.

Americas

A few months before the proclamation of the Universal Declaration of Human Rights (UDHR) on 10 December 1948, the \*\*[Inter-American Commission on Human Rights](#Ref34)\*\* (IACHR) of the \*\*[Organization of American States](#Ref35" \o "*Organization of American States[http://www.oas.org]*.)\*\* (OAS) adopted the \*\*[American Declaration of the Rights and Duties of Man](#Ref36)\*\* on 2 May 1948. Yet, it was not until 1951 that the \*\*[Charter of the Organization of American States (A-41)](#Ref37" \o "*Charter of the Organization of American States (OAS)[http://www.oas.org/en/sla/dil/inter_american_treaties_A-41_charter_OAS.asp]*.)\*\* entered into force.It followed the approval of the American Convention on Human Rights in 1969 as part of the OAS, and in 1979 it was created as The \*\*[Inter-American Court of Human Rights](#Ref38)\*\* (IACtHR).As of 2017, twenty-four of the thirty-five OAS member states are parties to the convention,even though the United States and Canada have not ratified it. The implementation of the convention was assigned for supervision to the IACHR and the IACtHR. The list of rights protected by the American Convention on Human Rights overlaps with that of the ECHR and of the International Covenant on Civil and Political Rights (ICCPR), even if Article 26 promotes a progressive vision of socioeconomic and cultural rights.

\*American Declaration of the Rights and Duties of Man[http://www.oas.org/en/iachr/mandate/Basics/declaration.asp]\*. [legal-citation]

The first modern declaration of human rights. It preceded and inspired some of the grounding concepts and rights of the UDHR, such as the notion of human rights inalienability and the nonderivation of human rights from state citizenship. This is an important document to understand the genesis of modern chartering of human rights.

\*Charter of the Organization of American States (A-41)[http://www.oas.org/en/sla/dil/inter\_american\_treaties\_A-41\_charter\_OAS.asp]\*. [legal-citation]

This charter regulates the OAS. It was signed in Bogotá, Colombia, in 1948 but came into effect as a treaty only in 1951. The link provides a list of the protections and amendments.

\*Inter-American Commission on Human Rights[http://www.oas.org/en/iachr/default.asp]\*.

The IACHR is based in Washington DC, together with the IACtHR, and it is used as a consultative organ by the OAS.

\*Inter-American Court of Human Rights[http://www.corteidh.or.cr]\*.

Here it is possible to find the judgments of the IACtHR. In addition, the website provides an interesting bulletin on press news releases and publications.

\*Organization of American States[http://www.oas.org]\*.

This website provides all information concerning strategic missions and documents released by the official bodies.

Africa

The system of human rights protection in Africa emerged out of the Organization of African Unity then transformed into the \*\*[African Union](#Ref39)\*\*, which adopted the \*\*[African Charter on Human and Peoples](#Ref40" \o "*African [Banjul] Charter on Human and Peoples’ Rights[http://www.achpr.org/instruments/achpr/]*.)**[’](#Ref40" \o "*African [Banjul] Charter on Human and Peoples’ Rights[http://www.achpr.org/instruments/achpr/]*.)** [Rights](#Ref40" \o "*African [Banjul] Charter on Human and Peoples’ Rights[http://www.achpr.org/instruments/achpr/]*.)\*\*. In the African Charter, the rights of “peoples” are recognized in Articles 19–24, and states are requested to submit annual reports to the \*\*[African Commission on Human and Peoples’ Rights](#Ref41" \o "*African Commission on Human and People’s Rights[http://www.achpr.org/]*.)\*\* (see also the *Oxford Bibliographies* in International Law article “\*\*The African Commission on Human and Peoples’ Rights and The African Court on Human and Peoples’ Rights[obo-9780199796953-0140]\*.” The system also included the creation of the \*\*[African Court on Human and Peoples’ Rights](#Ref42" \o "*African Court on Human and People’s Rights[http://en.african-court.org/]*.)\*\*, even though its force is limited by the recognition of only seven of the thirty states’ parties. The court has competence to assess cases submitted both by individuals and nongovernmental organizations (NGOs). Furthermore, the charter has been supplemented by two other treaties: the \*\*[African Charter on the Rights and Welfare of the Child](#Ref43)\*\*, which entered into force on 29 November 1999, and the \*\*[Protocol to the African Charter on Human and Peoples**’** Rights on the Rights of Women in Africa](#Ref44)\*\*.

\*African Charter on Human and Peoples’ Rights[http://www.achpr.org/instruments/achpr/]\*. [legal-citation]

This document, also known as the Banjul Charter, lists the rights and provides a history and an impact evaluation of the charter after thirty years.

\*African Charter on the Rights and Welfare of the Child[http://www.achpr.org/instruments/child/]\*. [legal-citation]

This charter has the aim of constructing a regional view on the rights of the child, starting from the UN Convention of the Rights of the Child of 1990.

\*African Commission on Human and Peoples’ Rights[http://www.achpr.org/]\*.

Official website of the commission, one of the main functions of which is the monitoring of human rights through evaluation of states’ reports.

\*African Court on Human and Peoples’ Rights[http://en.african-court.org/]\*.

Very useful instrument to track cases and documents of the court.

\*African Union[http://www.au.int/]\*.

Official website of the main organization of African states, which replaced the Organisation of African Unity (1963–2002).

\*Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa[http://www.achpr.org/instruments/women-protocol/]\*. [legal-citation]

This document strengthens the regional commitment to the removal, in particular, of sexual discrimination.

Arabic Countries

Arabic countries adopted the \*\*[Arab Charter on Human Rights](#Ref45)\*\* in 2008. In response, UN High Commissioner on Human Rights Louise Arbour, in her \*\*[Statement](#Ref46) by UN High Commissioner for Human Rights\*\*, observed that the Arab Charter is not compatible with several international human rights treaties and in particular in equating Zionism with racism. The Arab Charter adopts a reporting system ultimately assessed by the Standing Committee on Human Rights of the \*\*[Arab League](#Ref47)\*\*.

**\***Arab Charter on Human Rights[http://hrlibrary.umn.edu/instree/loas2005.html]\*. [legal-citation]

The charter was adopted by the Council of the League of Arab States in 1994, but it entered into force only in 2008 with the seventh ratification of the state members of the Arab states. The document reaffirms most of the articles contained in the UN Charter, and it follows the structure of the UDHR.

\*Arab League[http://www.cfr.org/middle-east-and-north-africa/arab-league/p25967]\*.

This Council on Foreign Relations website presents an overview of the mission and scope of the Arab League, the main regional organization of Arab states that specializes in human rights. The link also provides useful suggestions for further Internet resources.

\*Statement by UN High Commissioner for Human Rights on the entry into force of the Arab Charter on Human Rights, Geneva, 30 January 2008[http://www.un.org/apps/news/story.asp?NewsID=25447#.WHVoQYHTXqD]\*. [class:dataSetItem-database]

In her speech, the High Commissioner noted the incompatibility of the charter with certain international provisions, such as the death penalty for children, the rights of women and noncitizens, and equating Zionism with racism.

Blogs

There is a lively debate on the web regarding regional human rights issues, as well as the decisions undertaken by regional human rights courts. \*\*EJIL*: Talk!*\*\* hosts some of the most up-to-date debates on current issues of international law. With regard to the European context, instead, proactive discussion fora on the judicial decisions of the European Court of Human Rights (ECtHR) are \*\**[ECHR Blog](#Ref49" \o "*The ECHR Blog[http://echrblog.blogspot.it/2016/03/oxford-commentary-on-echr.html?m=1]*.)*\*\* and \*\**[Strasbourg Observers](#Ref50" \o "*The Strasbourg Observers Blog[https://strasbourgobservers.com/]*.)*\*\*. These also mention some of the most recent international publications in the field. For the Americas, a blog launched in 2011 is \*\**[Corte IDH Blog](#Ref51" \o "*Corte IDH Blog[http://corteidhblog.blogspot.com/]*.)*\*\*, whereas for the African context, \*\**[Africa Blogging](#Ref52" \o "*Africa Blogging [www.africablogging.org/]*.)*\*\* and \*\**[East and Horn of Africa Human Rights Defenders Project](#Ref53" \o "*The East Horn of Africa Human Rights Defenders Projects (DefendDefenders)[www.defenddefenders.org/category/blog/]*.)*\*\* are two of the main references for gathering updated information.

\**Africa Blogging*[http://www.africablogging.org/]\*.

*Africa Blogging* collects a plurality of perspectives for advancing democratic culture in sub-Saharan Africa.

\**Corte IDH Blog*[http://corteidhblog.blogspot.com/]\*.

This is a blog created and administered by Oswaldo Ruiz-Chiriboga, Álvaro Paúl, and Erick Acuña Pereda. It is dedicated to the Inter-American Court of Human Rights, withrobust sections and updates on cases.

\**East and Horn of Africa Human Rights Defenders Project*[http://www.defenddefenders.org/category/blog/]\*.

Also known as DefendDefenders, this blog aims to protect human rights activists by lowering their risk of persecution by authorities and adversarial groups.

\**ECHR Blog*[http://echrblog.blogspot.com]\*.

This blog, created by Antoine Buyse, is one of the most updated sources of information on the cases of the Strasbourg Court, as well as on related publications.

\*EJIL*: Talk!*[http://www.ejiltalk.org/]\*.

This an autonomously administered blog connected to the *European Journal of International Law*. It publishes reflections often by young scholars on controversial international law issues. A great place to keep yourself updated.

\**Strasbourg Observers*[https://strasbourgobservers.com/]\*.

This blog is edited by Lourdes Peroni and Stijn Smet. It is another very valuable source of debate and qualified information on the Strasbourg Court.

The Challenge of Relativism for Human Rights

Does the burgeoning of regional conventions and systems of protection contradict the universality of human rights? Certainly a relativist threat should not be confused with skepticism on human rights. Regionalization, though, appears rather as a process of “culturalization” of universal standards of human rights. This process, among other things, requires adoption of the margin-of-appreciation doctrine. In the eyes of international lawyers, the margin-of-appreciation doctrine guarantees systemic unity between regional conventions and the principles of the UN Charter. This point is also made by the preambles of the Vienna Convention on the Law of Treaties (VCLT), entered into force in 1980. In the wake of the proclamation of the Universal Declaration of Human Rights (UDHR), the authors of [American Anthropological Association](Statement%22%20%5Cl%20%22Ref54%22%20%5Co%20%22American%20Anthropological%20Association.%20) 1947 objected to the opinion that the document betrayed the will to impose Western values worldwide. The crucial question that Corradetti [2009](#Ref55) asks is whether it is possible to elaborate a notion of universal validity that is also contextually sensitive to cultural variation. Buchanan [2013](The#Ref56) appears to favor such a possibility. From a legal point of view, Brems [2001](#Ref57" \o "Brems, Eva. Human Rights: Universality and Diversity. Leiden, The Netherlands: Martinus Nijhoff, 2012. [ISBN: 9789041116185]) considers that the problem is to elaborate contextual techniques mediating between local traditions and international documents of human rights. This allows transformation of local power hierarchies, often a root cause of gender violence, as Merry 2006 documents. Renteln [2004](#Ref59) considers the extreme case of prosecutorial defense based on cultural proofs. This is a hard position to defend, but certainly one that has to conceive the system of law, politics, and culture as strictly interdependent wholes (Benhabib [2002](#Ref60)). For whom should human rights be valid standards? Ferrara [2003](Two#Ref61) distinguishes between two notions of humanity: a universal one and a historical one. The problem then turns on whether one could define a universal and atemporal list of human rights, and, if so, which rights should be included (Talbott [2005](#Ref62)).

American Anthropological Association, Executive Board[non-personal]. “Statement on Human Rights.” *American Anthropologist*, n.s. 49.4.1 (1947): 539–543.

This is an illuminating and a historically significant reading that suggests the opportunity of starting from a conception of the individual as a socially embedded entity rather than as a disencumbered being.

Benhabib, Seyla. *The Claims of Culture: Equality and Diversity in the Global Era*. Princeton, NJ: Princeton University Press, 2002. [ISBN: 9780691048635]

This book is a “must read” for those who want to understand more deeply some of the core philosophical issues on the role and nature of cultures. The author contends that, due to certain influential views on multiculturalism, cultures have not been sufficiently considered as dynamic systems continually redetermining their imagined internal and external boundaries. Only a democratic model of deliberation proceeding from such a premise is capable of combining cultural contestation within a socially shared public sphere.

Brems, Eva. *Human Rights: Universality and Diversity*. International Studies in Human Rights 66. Leiden, The Netherlands: Martinus Nijhoff, 2001. [ISBN: 9789041116185]

This book offers one of the best accounts of the legal techniques to reconcile legal universalism and context specificity of human rights— what the author calls “inclusive universality.” Moving from East Asian to sub-Saharan African to Muslim perspectives, the author shows how an “internal” route can be found to support universal human rights.

Buchanan, Allen. “The Challenge of Ethical Pluralism.” In *The Heart of Human Rights*. By Allen Buchanan, 249–273. Oxford: Oxford University Press, 2013. [ISBN: 9780199325382]

This is an extremely valuable contribution. The author contrasts the traditional image of a “mirroring view” on human rights, one considering legal human rights on par with moral rights, with a “pluralist justification” of human rights as legal rights. With regard to the relativist challenge, the author asks a novel question, one considering the case of valid “collective moralities” (ethical pluralism) and the maneuver of reconciliation with universal human rights.

Corradetti, Claudio. *Relativism and Human Rights: A Theory of Pluralistic Universalism*. Dordrecht, The Netherlands: Springer, 2009. [ISBN: 9781402099854]

This book rejects the moral and epistemic relativist challenges against human rights. It defends the view according to which the relationship between the UDHR and regional systems is one of “pluralist universalism.” Partial commensurability versus incommensurability is what distinguishes pluralist universalism both from classical abstract universalism, on the one hand, and from relativism, on the other hand.

Ferrara, Alessandro. “Two Notions of Humanity and the Judgment Argument for Human Rights.” *Political Theory* 31.3 (2003): 392–420.

This excellently written article deserves attention. The main thesis is that in order for human rights to be action guiding, they have to vindicate demands of multicultural life forms as well as an inclusive notion of universal validity**.** By engaging in dialogue with John Rawls and Jürgen Habermas, Ferrara illustrates how judgment theory is capable of responding to the flaws of liberalism.

Merry, Sally Engle. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago Series in Law and Society. Chicago: University of Chicago Press, 2006. [ISBN: 9780226520742]

An extremely valuable resource for students in gender studies and anthropology, this study suggests the opportunity of grounding human rights in local legal practices in order to deter and transform gender domination and violence from within social textures.

Renteln, Alison Dundes. *The Cultural Defense*. Oxford: Oxford University Press, 2004. [ISBN: 9780195154030]

Is cultural claim a sufficient reason on which to ground legal adjudication? Can cultural evidence be used as a proof in the courtroom for civil and criminal proceedings? This unique and controversial book provides an overview of this challenging question for legal scholars, where cases that are presented range from animal treatment to drug use and rape.

Talbott, William J. *Which Rights Should Be Universal?* Oxford: Oxford University Press, 2005. [ISBN: 9780195173475]

This well-known work assesses the extent to which a reformed, liberal Rawlsian theory is well suited for suggesting a bottom-up argument on human rights . The author identifies nine universal human rights, the support of which does not require the endorsement of moral imperialism.

Regional Systems of Human Rights Protection

After the approval of the UN Charter in 1945 and the Universal Declaration of Human Rights (UDHR) in 1948, the increase in the number of rights recognized with specific UN conventions was accompanied by a pluralization of regional systems of legal protection. Regional protection of human rights is conducted both through different agreements, such as the European Union (EU) Charter of Human Rights, and in particular through the already mentioned four regional treaties: the European Convention on Human Rights (ECHR), the American Convention on Human Rights, the African Charter on Human and Peoples’ Rights, and the Arab Charter on Human Rights. Yet, the world is not divided into four regions, and therefore such boundaries are difficult to establish. What can be retained from this is that regionalism of human rights supports the idea of a diffused system, something in antagonism to a pyramidal understanding of the enforceability of human rights law.

European System of Human Rights

The protection of human rights in Europe is conducted both by national parliaments and courts and by the Court of Justice of the European Union (CJEU) for the members of the EU who are under the EU Charter of Fundamental Rights. A larger jurisdictional competence on regional human rights is covered instead by the European Court of Human Rights (ECtHR), which applies the ECHR, opened for signature in 1950 and entered into force in 1953.A nonjudicial mechanism of regional protection is the Organization for Security and Co-operation in Europe (OSCE). Among the judicial regional systems of human rights protection, the ECtHR is the most effective mechanism, whose development has coincided with a progressive adjustment in scope, as Bates [2010](#Ref63) reconstructs. Schabas [2015](#Ref64) notes that the ECHR has produced an impressive amount of jurisprudence whose implementation at national level is often contested and hard to realize, as shown in Donald and Leach [2016](#Ref65). All in all, transnational adjudication promotes a general principle of equality among people, as Nikolaidis [2015](#Ref66) considers, one that supports an international rule of law (Lautenbach [2013](#Ref67))**.** The judicial action conducted under the ECHR, as in all other cases, requires interpretive theory for the balancing of rights and legal argumentation, but how to proceed? Letsas [2007](#Ref68) suggests an “objectivist” answer. Besides theoretical issues, applications to the Strasbourg Court might raise concerns for those legal practitioners who seek practical information (Leach [2011](#Ref69)). This is even more relevant in the early 21st century, when a large number of petitions from migrants should find their way to hearing and adjudication. Dembour [2015](#Ref70) addresses the issue by comparing the treatment of migrants by the ECtHR with that realized by the Inter-American Court of Human Rights (IACtHR).

Bates, Ed. *The Evolution of the European Convention on Human Rights: From Its Inception to the Creation of a Permanent Court of Human Rights*. Oxford: Oxford University Press, 2010. [ISBN: 9780199207992]

This is an excellent treatment of the historical development of the Strasbourg Court, also considering the different phases of definition of its scopes over the last previous fifty years.

Dembour, Marie-Bénédicte. *When Humans Become Migrants: Study of the European Court of Human Rights with an Inter-American Counterpoint*. Oxford: Oxford University Press, 2015. [ISBN: 9780199667833]

Migrants are one of the most urgent challenges to states today. Regional systems respond in different ways. The author considers in comparative terms how the ECtHR and the IACtHR treat migrant claims, and how different case-law trajectories are generated. A valuable contribution for engaging with one of the most severe early-21st-century humanitarian crises.

Donald, Alice, and Philip Leach. *Parliaments and the European Court of Human Rights*. Oxford: Oxford University, 2016. [ISBN: 9780191830907]

A still-underexplored aspect of the European system of protection of human rights is the relationship between the Strasbourg Court and national parliaments. This book fill such lacuna by considering the case of five parliaments aimed at securing national compliance with the judgments of the ECtHR. This is a valuable contribution that combines both legal and philosophical understanding of the relationships among democratic legitimacy, authority, and human rights protection.

Lautenbach, Geranne. *The Concept of the Rule of Law and the European Court of Human Rights*. Oxford: Oxford University Press, 2013. [ISBN: 9780199671199]

This is an excellent contribution to understanding the legal and philosophical implication of the concept of the rule of law in the international context, starting from the jurisprudence of the ECtHR. The notions of legality and judicial safeguards are the core concepts of the author’s claim that the rule of law is mainly of a procedural character.

Leach, Philip. *Taking a Case to the European Court of Human Rights*. 3d ed. Oxford: Oxford University Press, 2011. [ISBN: 9780199585021]

How can one bring a case to the Strasbourg Court? What are the practical steps to follow for lodging an application? This is a valuable contribution for those involved in the legal profession who want to have guidance on the ECtHR’s procedures and admissibility, as well as on the substantive content of rights.

Letsas, George. *A Theory of Interpretation of the European Convention on Human Rights*. Oxford: Oxford University Press, 2007. [ISBN: 9780199203437]

How should we interpret the mandatory character of the rights of the ECHR? This book defends a philosophical and a legal view clarifying this relationship and the role of the margin of appreciation in case-law adjudications.

Nikolaidis, Charilaos. *The Right to Equality in European Human Rights Law: The Quest for Substance in the Jurisprudence of the European Courts*. Routledge Research in Human Rights Law. Oxford and New York: Routledge, 2015. [ISBN: 9780415746601]

This is a useful resource for understanding convergences and differences between the ECtHR and the CJEU regarding the concept of equality. It adopts both a philosophical inspiration and a legal orientation.

Schabas, William A. *The European Convention on Human Rights: A Commentary*. Oxford Commentaries on International Law. Oxford: Oxford University Press, 2015. [ISBN: 9780199594061]

Likely the most comprehensive commentary on the marked, reviewing the ECHR article by article through more than a thousand sentences and dissenting opinions. A monumental work on the Strasbourg Court’s jurisprudence.

Inter-American System of Human Rights

The inter-American system of human rights arose from the adoption of the \*\*American Declaration of the Rights and Duties of Man\*\* (cited under \*Online Institutional Resources: Americas\*) in 1948. It consolidated with the institution of the Inter-American Commission of Human Rights (IACHR) in 1959 and with the IACtHR in 1979. The IACtHR was set up in 1979 with the aim to give effect to the American Convention on Human Rights . Together with the IACHR, it supports the protection of human rights in the Americas. Besides acceptance of the convention, a state’s parties must accept either on specific cases or completely the IACtHR’s contentious jurisdiction. In addition to an adjudicatory function, the IACtHR has also an advisory function for states creation and interpretation of national legislation in coherence with the convention, as Pasqualucci [2013](#Ref71) and Burgorgue-Larsen and Úbeda de Torres 2011 explain with reference to detailed case-law analysis. There is also a yearly collection of \*\*extracts\*\* from 1985 onward, available in Spanish and English (Inter-American Court of Human Rights and Inter-American Commission on Human Rights 1985–)**.** The IACtHR upheld the principle of “conventionality control” (Ferrer Mac-Gregor [2015](%2AConventionality#Ref74)), which raises issues of democratic legitimacy of states due to the expansive behavior of the IACtHR, as Binder [2011](The#Ref75) and Roa [2011](#Ref76) highlight. This role by the IACtHR, though, is explicable due to the legacy of democratic instability in several Latin American states that have moved away from authoritarianism only since the late 20th century, as Hillman, et al. 2002 investigates.

Binder, Christina. “The Prohibition of Amnesties by the Inter-American Court of Human Rights.” *German Law Journal* 12.5 (2011): 1203–1229.

Due to the IACtHR’s exercise of expansive judicial functions over state members by means of use of the principle of “conventionality control,” problems of democratic self-determination have arisen. This study examines in particular the tension between the IACtHR and its states’ members with regard to national amnesty legislation.

Burgorgue-Larsen, Laurence, and Amaya A. Úbeda de Torres. *The Inter-American Court of Human Rights: Case Law and Commentary*. Translated by Rosalind Greenstein. Oxford: Oxford University Press, 2011. [ISBN: 9780199588787]

This book is a valuable instrument for those scholars and practitioners who want to enter into the nitty-gritty details of the case law of the IACtHR. For the first time available in English, this work is organized into two parts: Part I, “Procedural Guarantees,” and Part II, “Substantive Guarantees.” The references section and the index are also particularly useful.

Ferrer Mac-Gregor, Eduardo. “\*Conventionality Control: The New Doctrine of the Inter-American Court of Human Rights[https://www.asil.org/blogs/symposium-constitutionalization-international-law-latin-america-conventionality-control-new]\*.” *American Journal of International Law* 109 (2015): 93–99.

In this article, Judge Ferrer Mac-Gregor addresses the issue of “conventionality control,” which was introduced into the inter-American system to increase the levels of state compliance to the IACHR. A good way to enter into the mindset of the IACHR through a very accessible contribution.

Hillman, Richard S., John A. Peeler, and Elisa Cardozo Da Silva, eds. *Democracy and Human Rights in Latin America*. Westport, CT: Praeger, 2002. [ISBN: 9780275974824]

The demands of compliance to human rights standards in Latin America have been accompanied by claims of democratic enhancement, particularly endangered by the recrudescence of authoritarian regimes in the 1980s. This book discusses internal processes of democratization as well as international promotion of human rights, arguing that both are necessary. Scholars interested in democratic transitions and promotion of human rights in Latin America will find this contribution to be valuable.

Inter-American Court of Human Rights[non-personal] and Inter-American Commission on Human Rights[non-personal], eds. *Inter-American Yearbook on Human Rights****/****Anuario interamericano de derechos humanos*. Leiden, The Netherlands: Brill-Nijhoff, 1985–.

These bilingual (Spanish-English) yearbooks collect the main decisions issued by the IACHR and the IACtHR. It is a quite useful instrument, particularly to practitioners (e.g., judges), but is fairly expensive for private purchase.

Pasqualucci, Jo M. *The Practice and Procedure of the Inter-American Court of Human Rights*. 2d ed. Cambridge, UK: Cambridge University Press, 2013. [ISBN: 9781107006584]

This revised second edition is a classic text for a thorough understanding of the IACtHR procedures. It discusses the court’s most recent revisions as well as its limitations. Part I addresses the advisory jurisdiction of the court, whereas Part II deals with the contentious jurisdiction. This is a suitable instrument for graduate and research scholars, as well as for those who aspire to achieve an advanced understanding of the inter-American system.

Roa, Jorge Ernesto. *La función consultiva de la Corte Interamericana de Derechos* *Humanos*. Bogotá: Universidad Externado de Colombia, 2011. [ISBN: 9789587107005]

This works evaluates the significance and the effects of the consultative practice of the IACtHR, which in 2014 issued twenty-one opinions, a very exceptional event in the court’s history. This is an interesting contribution for those advanced scholars who want to engage with possible early-21st-century loss of authority by the court, and the reasons behind this.

African System of Human Rights

The African system of human rights is based on the \*\*African Charter on Human and Peoples**’** Rights\*\* (cited under \*Online Institutional Resources: Africa\*), also known as the Banjul Charter. This is an international human rights instrument whose institutional-mechanisms oversighting to this purpose are the \*\*African Commission on Human and Peoples’ Rights\*\* (cited under \*Online Institutional Resources: Africa\*) of 1987 and the \*\*African Court on Human and Peoples’ Rights\*\* (cited under \*Online Institutional Resources: Africa\*), which was established by Article 1 ofthe \*\*Protocol to the African Charter on Human and Peoples**’** Rights\*\* (cited under \*Online Institutional Resources: Africa\*) in 1998 and then was put into force in 2004. Africa has been crossed by several conflicts that have not ended with the postcolonial phase (Boulden [2003](#Ref78)). The establishment of the African system of protection of human and peoples’ Rights has often been ineffective, as argued in Fennell and Andoni [2014](#Ref79). Yet, as a system it has developed a number of practices, as Evans and Murray [2008](#Ref80) presents, which intersects with the UN and the subregional levels of protection (Viljoen [2007](#Ref81), Kufuor [2010](#Ref82)). Yeshanew [2013](#Ref83) extends the consideration of human rights justiciability within the African system also to include social, economic, and cultural rights. To this end, activist forces cannot be considered as secondary subjects for the effectiveness of the court, as claimed in Okafor [2010](#Ref84" \o "Okafo, Obiora Chinedu. The African Human Rights System, Activist Forces and International Institutions. Cambridge, UK: Cambridge University Press, 2011.). See also the subsection \*Online Institutional Resources: [Africa](#Sec8)\* for more sources on this topic.

Boulden, Jane, ed. *Dealing with Conflict in Africa: The United Nations and Regional Organizations*. Basingstoke, UK: Palgrave Macmillan, 2003. [ISBN: 9781403960801]

Conflict resolution is one of the main tasks of international and regional organizations. Can they have any preventive function? This book covers several cases of conflict and in particular the war in Congo.It is a relevant contribution for expanding the understanding of the institutional subjects that could cooperate together with the African Court to bring peace in Africa.

Evans, Malcolm, and Rachel Murray, eds. *The African Charter on Human and Peoples’ Rights: The System in Practice, 1986*–*2006*. 2d ed. Cambridge, UK: Cambridge University Press, 2008. [ISBN: 9780511493966]

The second edition of this massive collection of essays is an updated version of a project that has aimed since the start to cover the practical aspects (e.g., states’ reporting systems, fact-finding evidence) involved in the vindication of the rights of the African Charter. Even though temporally constrained, this is a highly valuable instrument particularly suitable for practitioners and research scholars.

Fennell, Simone, and Dorina Andoni, eds. *The African Charter on Human and Peoples’ Rights: Basic Documents*. Oisterwijk, The Netherlands: Wolf Legal, 2014. [ISBN: 9789462400009]

This publication presents the legal documents that form the African regional system of protection of human and peoples’ Rights. This is a relevant enterprise to understand where this system shows the ineffectiveness of the African Court due to the lack of ratification of several signatory states.

Kufuor, Kofi Oteng. *The African Human Rights System: Origin and Evolution*. New York: Palgrave Macmillan, 2010. [ISBN: 9780230605053]

This very accessible contribution presents, critically, the development and the tripartite levels of the African regional system for human rights protection. It is a short book with an interesting view on the court and the commission.

Okafor, Obiora Chinedu. *The African Human Rights System, Activist Forces and International Institutions*. Cambridge, UK: Cambridge University Press, 2010. [ISBN: 9780521184038]

This contribution adopts a quasi-constructivist approach to the measurement of effectiveness of the African system on state domestic jurisdictions. The book argues for a constitutive role of activist forces on international human rights institutions (IHI). It considers that without such activist forces as nongovernmental organizations, women’s associations, and other such groups, no system of human rights protection would have developed in Africa. This is an excellent and very well-organized contribution.

Viljoen, Frans. *International Human Rights Law in Africa*. Oxford: Oxford University Press, 2007. [ISBN: 9780191696107]

A valuable instrument for gaining an overview of the regional system of human rights protection in Africa. It considers the role both of the UN and of the subregional level. This book also presents the jurisprudence of the African Court since its inception with the 1986 approval of the African Charter.

Yeshanew, Sisay Alemahu. *The Justiciability of Economic, Social and Cultural Rights in the African Regional Human Rights System: Theory, Practice and Prospect*. Cambridge, UK: Intersentia, 2013. [ISBN: 9781780680873]

This book considers the subsidiary role of economic, social, and cultural rights in Africa with regard to the justiciability of social justice and public accountability. It is a valuable instrument that integrates the overall understanding of the regional system of human rights protection.

Asian Values and Human Rights

On the Asian continent there is not a regional court, but in 1967 five founding members of the Association of Southeast Asian Nations (ASEAN) adopted the Bangkok Declaration, or ASEAN Declaration, as their founding document. Asia, therefore, is the only continent lacking a regional system of enforceable human rights protections through a court. Yet, there are emerging trends possibly leading to the creation of supranational adjudication. Are human rights reconcilable with Asian values? What symptoms indicate that there is an emerging regional system of human rights protection in Asia? Baik [2012](#Ref85) claims that there is an emerging trend in this direction. The question, then, is how and to what extent—whether through maximalist or minimalist terms—it is desirable to implement a regional system of human rights, as Phan [2012](#Ref86) queries. There might indeed be a tension between the universal aspiration of human rights and the local cultural forces that refuse a human rights supra-structure (Rosett, et al. [2003](#Ref87)).

Baik, Tae-Ung. *Emerging Regional Human Rights Systems in Asia*. Cambridge, UK: Cambridge University Press, 2012. [ISBN: 9781107015340]

Asia is the only continent lacking a regional system of human rights protection. This leadingstudy shows that there are clear signs of a human rights system developing in Asia, not only at the regional level but also at the subregional one. The shift has occurred mainly due to the 2009 ASEAN human rights body (ASEAN Intergovernmental Commission of Human Rights, or AICHR). Recommended to researchers and practitioners, such as judges and human rights activists**.**

Phan, Hao Duy. *A Selective Approach to Establishing a Human Rights Mechanism in Southeast Asia: The Case for a Southeast Asian Court of Human Rights*. Leiden, The Netherlands: Martinus Nijhoff, 2012. [ISBN: 9789004222168]

This publication, derived from a doctoral dissertation, asks whether it is the case that a regional system of human rights in Asia should be conceived of as an ambitious and demanding project demanding an explicit consent by states, or if it is instead to be pursued in not too-demanding but territorially maximally inclusive terms.

Rosett, Arthur, Lucie Cheng, and Margaret Y. K. Woo, eds. *East Asian Law: Universal Norms and Local Cultures*. London: RoutledgeCurzon, 2003. [ISBN: 9780415297356]

This research explores the tension between states’ systemic convergence upon a universal system of human rights and cultural centrifugal forces undermining the process. A valuable contribution to frame the problem of universalism of human rights and the localism of cultures within an Asian context.

Islam and Human Rights

The League of Arab States adopted the Arab Charter on Human Rights (ACHR) in 2004. The charter entered into force in 2008, and a committee of experts was set up in order to evaluate states’ reports. Under a decidedly religious perspective, in 1990 the Organization of the Islamic Conference (name changed to Organisation of Islamic Cooperation in 2011) adopted the Cairo Declaration on Human Rights in Islam (also known as the Cairo Declaration). Differently from the subsequent ACHR, the Cairo Declaration recognized Sharia as its only normative source.In virtue of such contested premises, it has often been claimed that Islamic traditions are incompatible with human rights. This oversimplistic view is challenged by many scholars, who have instead recognized the widespread instrumental use of Islam by authoritarian regimes (Mayer [2013](#Ref88)). To evaluate whether or not this is the case, Akbarzadeh and MacQueen [2008](#Ref89) assesses the status of equality and reforms on the basis of country samples. It might be crucial to establish, as Emon, et al. [2012](#Ref90) has done, that there is a basic shared threshold between international law provisions and Islamic peculiarities.

Akbarzadeh, Shahram, and Benjamin MacQueen, eds. *Islam* *and Human Rights in Practice: Perspectives across the Ummah*. London and New York: Routledge, 2008. [ISBN: 9780415449595]

This is a collection of essays by leading scholars in the field. The contributions are focused mainly on countries such as Iran, Iraq, Afghanistan, and Egypt. The authors address issues of gender equality, freedom, and reforms. It is a useful supplement for research.

Emon, Anver M., Mark S. Ellis, and Benjamin Glahn, eds. *Islamic Law and International Human Rights Law: Searching for Common Ground?* Oxford: Oxford University Press, 2012. [ISBN: 9780199641444]

This is an extremely valuable collection, the result of a long period of collaboration between the editors and the authors. The contributions concentrate on the encounter, and often the conflict, between Islamic law and international human rights standards. Is it possible to find “common ground” ? This is a highly recommended contribution to frame the possible compatibility between Islam and international human rights.

Mayer, Ann Elizabeth. *Islam and Human Rights: Tradition and Politics*. 5th ed. Boulder, CO: Westview, 2013. [ISBN: 9780813344676]

The author claims that Islamic tradition has only instrumentally been used to legitimate undemocratic regimes. There is contrariwise no relativist tension between Islam and human rights. Now in its fifth edition, this text is an important reference for understanding both cultural and legal aspects related to the compatibility of Islam with human rights.

Regional Protection of Human Rights: Fragmentation, Subsidiarity, and the Unity of International Law

Is regional protection of human rights threatening the unity of international law? Or, rather, is it strengthening it and bringing coherence? After a decade of discussion on regime fragmentation, scholarship has in the 2010s turned to consider also the convergence and defragmentational trajectories in human rights and international law, as Buckley, et al. [2017](#Ref91) and Fauchald and Nollkaemper 2012 argue, respectively, as does Andenas and Bjorge [2015](#Ref93). One international law instrument that works quite effectively at the European regional level is the margin-of-appreciation doctrine. How does this doctrine link the Strasbourg Court with deliberative compliance by national parliaments? Saul [2015](The#Ref94) answers this question. A different case is that of the so-called transitional states; namely, post-conflict regimes. The worry here is whether the margin-of-appreciation doctrine adopted by the Strasbourg Court could lead to a sort of cultural relativism, as with deference to states’ political stages in the case of so-called transitional countries, discussed in Sweeney [2005](Margins#Ref95). Relativism is a threat to the legitimacy of a state’s constitutionalism. In contrast, collective forms of legitimate ruling have to go global, as Kumm [2013](The#Ref96) argues. But given the relative independence of regimes, how can one conceive of the cosmopolitan unity of international law? As Corradetti [2016](Symposium.#Ref97) shows, international courts in some significant instances have interpreted jurisdictional autonomy as part of a global system of law, though not one organized on a hierarchical state-like constitutional framework.

Andenas, Mads, and Eirik Bjorge, eds. *A Farewell to Fragmentation: Reassertion and Convergence in International Law*. Studies on International Courts and Tribunals. Cambridge, UK: Cambridge University Press, 2015. [ISBN: 9781107082090]

Since the *Fragmentation of International Law* report issued in 2006 by the International Law Commission (Geneva, Switzerland: UN; available \*online[http://legal.un.org/ilc/documentation/english/a\_cn4\_l682.pdf]\*), scholars have debated whether international law is moving toward a more consistent system or, instead, toward dispersed and autonomous regimes. This collection of essays proposes different conceptual categories to understand fragmentation according to courts and sources, as well as with regard to substantive, institutional, or methodological distinctions. This is an updated point of view on the most recent stage of development of the debate on the fragmentation of international law.

Buckley, Carla M., Alice Donald, and Philip Leach, eds. *Towards Convergence in International Human Rights Law: Approaches of Regional and International Systems*. Papers presented at a workshop hosted by the Human Rights Law Centre held in June 2013 at the University of Nottingham, Nottingham, UK. Nottingham Studies on Human Rights 5. Leiden, The Netherlands: Brill Nijhoff, 2017. [ISBN: 9789004284241] [class:conference-proceeding]

With a preface by Judge Antônio Augusto Cançado Trinidade, this edited book includes contributions from young and leading scholars in international human rights law. In addition to the collected essays, the book concludes with an appendix reviewing the literature on the harmonization on the jurisprudence of regional and international human rights bodies.

Corradetti, Claudio, ed. “Special Section: Symposium: Cosmopolitan Law and the Courts.” *Transnational Legal Theory* 7.1 (2016): 20–132.

The concept for this symposium originated from the illustration of the problematic relationship between the UN Security Council and both the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR), respectively. Questions are answered with regard to whether this trend would determine a process of system fragmentation, or if, more generally, it would simply detect a relativist framework in human rights. Articles by Corradetti, H. Patrick Glenn, Mario Savino, Andreas Follesdal, and Gentian Zyberi.

Fauchald, Ole Kristian, and André Nollkaemper, eds. *The Practice of International and National Courts and the (De-)fragmentation of International Law*. Studies in International Law 40. Oxford: Hart, 2012. [ISBN: 9781849462471]

This edited book answers the question of whether courts threaten or reinforce the unity of international adjudication and law. Since jurisdictional limitations favor legal fragmentation, the book shows what instruments are available for the defragmentation of international law.

Kumm, Mattias. “The Cosmopolitan Turn in Constitutionalism: An Integrated Conception of Public Law.” *Indiana Journal of Global Legal Studies* 20.2 (2013): 605–628.

Cosmopolitanism in law is an old ideal that has been revived since the late 20th century. From a legal-theory perspective, Kumm claims that justice-sensitive externalities legitimize a cosmopolitan turn in state constitutionalism. Accordingly, constitutionalism should not only embrace a state internal dimension of collective government but also regulate interstate relations. This is a classic reference article for those who want to access the modern discussion of constitutional debate.

Saul, Matthew. “The European Court of Human Rights’ Margin of Appreciation and the Processes of National Parliaments.” *Human Rights Law Review* 15.4 (2015): 745–774.

This work assesses how the ECtHR’s margin-of-appreciation doctrine has had positive effects on enhancing the quality of parliamentary deliberation. To what extent does the court scrutinizes parliamentary deliberations? These and other questions are addressed with clarity and precision in this excellent essay.

Sweeney, James A. “Margins of Appreciation: Cultural Relativity and the European Court of Human Rights in the Post–Cold War Era.” *International & Comparative Law Quarterly* 54.2 (2005): 459–474.

This fine article was written by one of the first and most knowledgeable experts on the role of the ECtHR in “transitional,” post-communist countries. It is unique research of its kind.

Human Rights Country Reports

There are a number of independent nongovernmental agencies monitoring the implementation of human rights laws at the country level. This is a crucial task for supervising the improvement of living conditions worldwide. **\***\*[Human Rights Watch: Reports](#Ref98" \o "*Human Rights Watch World Reports[https://www.hrw.org/publications]*.)\*\* provides annual measurement of the status of compliance to international human rights standards, as does, similarly, \*\*[Amnesty International: Countries](#Ref99" \o "*Amnesty international Country Annual Report[https://www.amnesty.org/en/countries/]*.)\*\*. \*\*[Freedom House: Reports](#Ref100" \o "*Freedom House Reports[http://www.freedomhouse.org]*.)\*\*, instead, offers publications that measure the degree of democratic advancement and political transparency. All in all, these reports help in coming to grips with the overall worldwide status of country progression toward democracy and human rights.

\*Amnesty International: Countries[https://www.amnesty.org/en/countries/]\*. [class:dataSet-database]

Amnesty International is a very proactive organization that, since its founding in 1961 by Peter Benenson, has conducted campaigns in defense of victims of human rights abuses. The annual reports concern country-level monitoring of human rights protection.

\*Freedom House: Reports[http://www.freedomhouse.org/reports]\*. [class:dataSet-database]

Freedom House is a nongovernmental organization (NGO) founded in 1941 by Eleanor Roosevelt, among others. It publishes annual reports measuring civil and political freedoms and the liberty of the press.

\*Human Rights Watch: Reports[https://www.hrw.org/publications]\*. [class:dataSet-database]

Human Rights Watch is an international NGO dedicated to the advocacy of human rights. In 1981 it added Americas Watch, which was then followed by Asia Watch in 1985, Africa Watch in 1988, and Middle East Watch in 1989.