

Indivisibility of human rights

Unifying the two Human Rights Covenants?

This year we celebrate 70 years since the adoption of the Universal Declaration of Human Rights. The Declaration, adopted on 10 December 1948 in Paris by the United Nations General Assembly, expressed an idea that was revolutionary at the time: human rights are universal, indivisible and inter-dependant, and the international community has an obligation to ensure protection of those rights. The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) were intended to provide a legally binding codification of the rights listed in the Declaration. Initially drafted in 1954 as a single document, they were opened for signature and ratification separately, in 1966, and came into force in 1976, during the Cold War. In the light of the United Nations General Assembly's 31 May 2018 mandate for reforms – aimed at simplifying, addressing fragmentation, and improving transparency and accountability – more and more stakeholders ask whether it is time to end the Cold War-era ideological division between civil and political rights, on the one hand, and economic, social and cultural rights, on the other. Apart from all United Nations' member states ratifying and implementing both covenants, a further step could be to codify the two Covenants in a single document, thereby emphasising their indivisibility and overcoming fragmentation.

The history of the two Covenants

Binding international treaties constitute the foundation and principle substance of the international human rights regime, and are intended as a strong and effective instrument to promote and protect global human rights. It was originally intended that one treaty, rather than two, would give legal force to the 1948 [Universal Declaration of Human Rights](#) (UDHR). However the Cold War prevented this. On 16 December 1966, the United Nations General Assembly (UNGA) adopted two international treaties that would forever shape international human rights: the [International Covenant on Economic Social and Cultural Rights](#) (ICESCR), upholding the right to work, to form free trade unions, and to social security, education, health and family life; and the [International Covenant on Civil and Political Rights](#) (ICCPR), that protects rights to life, liberty, and freedom from torture and slavery.

Eighteen years in the making, the two Covenants (as they are known today) along with the Universal Declaration of Human Rights created the [International Bill of Human Rights](#), and set out the civil, cultural, economic, political and social rights that are the birth-right of all human beings. At the time the UDHR was adopted, the [original intention](#) had been to establish a Bill of Rights in the form of a trinity: a Declaration, a Covenant and a monitoring body. However, with the East-West divide in Europe and the communist revolution about to succeed in China, the precursor of the [UN Commission on Human Rights](#) became ideologically divided. Western countries focused exclusively on ICCPR and neglected the ICESCR, while the Soviet bloc adopted the opposite position.

Five decades after the adoption of the international covenants, and with the Cold War and its perceived conflict between the two sets of rights behind us, [Professor Nico Schrijver](#), a member of the [UN Committee on Economic, Social and Cultural Rights](#) together with other [researchers](#), has suggested that a new technical protocol could be devised, to create a bridge between the two covenants.

The [Vienna Declaration and Programme of action](#), which resulted from the [World Conference on Human Rights in Vienna](#) in 1993, and which emphasises that 'all human rights are universal, indivisible and interdependent and inter-related', was a clear sign of the changing times.

According to Professor Schrijver, a new protocol would enable joint monitoring and a joint complaints procedure and, in turn, pave the way towards what he calls 'one worldwide human rights treaty' to ensure that the indivisibility principle is fully upheld, since the implementation of all rights simultaneously is necessary for the full functioning of the human rights system, and no single human right can be fully implemented or realised [without fully realising all other rights](#).

The role played by the two Covenants

The two Covenants have played a role in raising awareness of human rights, but also in changing the lives of people and in changing government policies. Both are legally binding treaties, but only for those countries that have signed and ratified them ([169 ratifications](#) for the ICESCR and [172 ratifications](#) for the ICCPR, to date). Each of the covenants is monitored by a committee of experts, which reviews the progress of states which have ratified them and implemented the laws at national level. They also hear from [individuals complaining](#) of their rights being violated and assess if states need to remedy the situation. The individual complaint procedure is optional, and applies only for states that have ratified the protocols to the [ICCPR](#) and the [ICESCR](#) respectively. However, as the committees have 'no authority to act punitively against the offending state, or impose any sanctions' for non-compliance, one may question the strength of the enforcement mechanism. Notwithstanding the differences between the two categories of human rights, there are many similarities between the two treaties, and the secretariat of their respective committees is provided by the [Office of the High Commissioner of Human Rights \(OHCHR\)](#). However, they still stand independent and distinct from each other.

In 2016, on the 50th anniversary of the two Covenants, the UN Human Rights Office launched a campaign, '[Our Rights. Our Freedoms. Always](#)', to promote and raise awareness of rights and freedoms enshrined in the covenants. This slogan reflects the timelessness of rights and freedoms and the relevance of the work that continues in securing and ensuring them. In terms of substance, the necessity of enforcing indivisibility and universality as well as the growing non-workability, in practice, of the greatly fragmented system of international monitoring of human rights, means a more unified approach is called for. Building upon the spirit of the 1993 Vienna conference and the 50th anniversary campaign, a number of [researchers](#) suggest that a [step-by-step approach](#) be considered. A first step could be enabling more structured cooperation between the various treaties' committees, by streamlining their procedures, assessing parallel reports in a mutually consistent manner and preparing joint conclusions and recommendations. Further steps could involve a joint protocol that establishes a joint monitoring mechanism and joint complaint procedures for both covenants. Also, as [Jan Lhotsky](#), head of the Czech Centre for Human Rights and Democracy, states, in order to achieve a genuine reform of the system, as the UN General Assembly expects by 2020, an [Integrated Treaty Body System](#) should be established that would not require amendment of the current treaties but would improve the effective functioning of the system. The main features of such a proposal could consist of transforming the Human Rights Committee into a permanent body monitoring both covenants on human rights, while the two specialised committees would interact with the Human Rights Committee in regular meetings. This would not only promote efficiency and coherence but would also eliminate duplication in [reporting](#) and, eventually, by eliminating the current fragmentation, [ensure](#) that human rights are truly indivisible.

European Parliament position

According to [Article 21 of the Treaty on European Union](#), EU external policies have to promote the universality and indivisibility of human rights. The European Parliament in its [2016](#), [2017](#) and [2018](#) resolutions, amongst [others](#), on the participation of the EU in the United Nations General Assembly, reiterated firmly that all human rights agreed under UN conventions are universal, indivisible, interdependent and inter-related, and that respect for these rights must be enforced. It called upon the EU and the UN not only to firmly condemn the disturbing global trend towards a marginalisation and denial of human rights and democracy but also to counter any negative trends, including with regard to the space for civil society. Parliament called for more effective use of the legal instruments available, notably Article 2 of EU association agreements with third countries, when appropriate. It urged all UN member states to ratify and effectively implement all core UN human rights conventions, including the Optional Protocols to the ICCPR and ICESCR which establish complaint and inquiry mechanisms, and to comply with the reporting obligations under these instruments. Finally, the European Parliament drew attention to the global backlash against human rights defenders and advocates of democratisation. To this end, on the occasion of the EU China human rights dialogue on 22 June 2017, the European Parliament called on the EU and its Member States to [step up their efforts](#) in all multilateral fora to encourage China to ratify and implement the ICCPR.

