Overview of enforcement mechanisms [1]

International law generally suffers from the lack of a central enforcement mechanism, and human rights law is no exception. The international human rights conventions are the product of multilateral negotiation – it is left open to each state that ratifies a convention to bring the standards to life in its domestic context. However, the treaty bodies that monitor each convention produce ‘General Comments’ as authoritative interpretations of human rights standards to guide states.

The international community is made up of states that are protective of their independence and sovereignty, and have never agreed to establish effective procedures for the enforcement of international law. A permanent court, the International Court of Justice [2](ICJ), sits in The Hague in the Netherlands. The powers of the Court are however quite limited: it can only hear cases involving countries, rather than individuals, and countries must agree voluntarily to submit disputes to the Court. There is no international police force to help in implementing international law. Since 2002, however, the world has had a new criminal court: see International criminal mechanisms [3].

Nonetheless, it remains true that many rules of international law are very difficult to enforce. To varying degrees, most countries tend to respect or at least wish to be seen to respect the principles of international law because they do not want to be criticised or, in extreme cases, ostracised, by the international community.

In relation to human rights treaties, there is provision for the supervision of implementation by state parties of their obligations, in the following principal ways:

- UN Human Rights Council’s special procedures;
- reporting procedures;
- state versus state complaints; and
- individual complaints against states; and
- criminal proceedings in the International Criminal Court.

Some of the human rights treaties are implemented through reporting procedures alone, and others use state and/or individual complaints mechanisms.

UN Human Rights Council

The UN Commission on Human Rights and its Sub-Commission on the Promotion and Protection of Human Rights were abolished in June 2006, and replaced by a successor organisation, the UN Human Rights Council as part of a program of internal UN reforms. The Human Rights Council reports directly to the UN General Assembly. The Human Rights Council has 47 state members, representing each of the five UN geographical regions, which are elected by secret ballot cast by the UN General Assembly.

The Human Rights Council has:

- accorded appropriate importance within the UN to human rights by creating a higher status, Council level body, akin to the significance accorded to security (Security Council) and development (Economic & Social Council). All three concepts are central to the UN Charter; and
- established the universal periodic review (UPR) system of UN member states’ human rights performance.

In order to ensure that human rights violators do not use the Human Rights Council to evade international scrutiny, a member of the Council can be suspended on a two-thirds majority vote by the General Assembly for gross and systematic violations of human rights. No member may serve more than two consecutive terms.