

Chapter Review of the Seventh Edition Book of Michael Akehurt: Modern Introduction to International Law(1997)

Addis Alemayehu Kebede¹, Agenagn Kebed Dagne², Melkamu Dires Asabu³

1 2 3 Woldia University, Woldia, Amhara Regional State, Ethiopia

Corresponding Authors: e-mails: addisalemayehu91@gmail.com, agenagnkebede@gmail.com, dires.melkamu@gmail.com

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Abstract— Michael Akehurt's book (1997); modern introduction to international law, seventh edition revised by Peter Malanczuk, has 22 chapters. Of these chapters, the 14th chapter titled as human rights revised. The main concern of this chapter review was to show the strength, weakness, and gaps to be filled in the chapter of human rights by comparing and contrasting with the books of International Law (Shaw, 2008) and the Limits of International Law (Goldsmith and Posner, 2005).

Keywords— Chapter Review, HUMAN RIGHTS, Michael Akehurt.

I. INTRODUCTION

Michael Akehurt's book (1997); modern introduction to international law, seventh edition revised by Peter Malanczuk, has 22 chapters. Of these chapters, the 14th chapter titled as human rights revised. The main concern of this chapter review was to show the strength, weakness, and gaps to be filled in the chapter of human rights by comparing and contrasting with the books of International Law (Shaw, 2008) and the Limits of International Law (Goldsmith and Posner, 2005).

II. THE CONCEPT OF HUMAN RIGHT

Human rights are the only given rights for human beings (Akehurts, 1997, p. 209) while Shaw (2008, p. 266) related the concept of human right with ethics and morality and he clearly put that positive rights easily found on legal system and moral rights that are not necessarily enforceable by law. Here, Akehurst's book is getting a gap of human rights in terms of moral perspectives. In addition to that, Akehurst's concept of human right bedrocked in the peace treaty of 1815 and onwards, while Shaw's concept heavily relied on Universal Declaration of Human Rights in 1948 albeit Goldsmith and Posner (2005, p.116) focused more on multi-lateral treaties to protect human rights.

Shaw mentioned that the sources of human rights are either from religion or nature of man or nature of society but Akehurst did say nothing, and at the same time Smith and Posner did not mention on basic limitations of international law to protect human rights. In this case, Shaw explained more about it, indeed, he lacked evidences.

All writers idea concerning with the issue of controversial nature of human rights and the enforcement mechanism are

not uniform to the globe due to different backgrounds. Akehurst(p. 210) and Shaw(p.265) agreed in terms of ideological approaches in western and eastern by giving the civil and political rights to the individual and to the state respectively. In addition to this, they mentioned the generation of rights. In terms of third world countries, Akehurst emphasized food, not right but in the eye of Shaw the equality and sovereignty of states to exercise social and economic rights had vital place. Hence, both inclined more to the development of economy as ingredient for keeping human rights.

III. HUMAN RIGHTS ON UNIVERSAL LEVEL

UN is the only organization to oversee the international human right issues with its specialized agencies and different covenants in different time and place. In the Akehurst(p. 211) eye, under the Universal Declaration of Human Rights, Human Rights were extensively mentioned and Shaw(p.265) induced the importance of the declaration for freedom, justice, and peace for the world from the universal declaration. But they did not bring major constraints of the declaration to implement human rights. Also in thier book, Goldsmith and Posner(p. 117) mentioned the number of participants in each covenant under United Nations. However, all three books had not put their standings.

Unlike Goldsmith and Posner(p. 122), for Akehurst(p.213) United Nation bodies which are active in the field of human rights have neither symmetrical nor asymmetrical important treaties of human rights due to controversy of sovereignty and cooperation. But Shaw(p. 272)stated some basic principles like domestic jurisdiction, the exhaustion of

domestic or local remedies rule, priorities of rights, customary international law and human rights as evolving principles and simply important .

The covenant of economic social and cultural human rights are formulated not as directly binding obligation but described in terms of a program depending on the good will and resources of state (Akehurst, 1997, p. 216). So .how this covenant be international human rights law since it depends on the state was the question of Akehurst. Supporting the worry of Akehurst(p.215), Goldsmith and Posner argued that the only compulsory mechanism under the United Nations Human Rights Commission is reporting.

IV. HUMAN RIGHTS IN THE REGIONAL LEVEL

"Conflicting ideologies and interests, and mutual distrust, make difficulty to reach agreement at the United Nation about human rights" (Akehurst, 1997, p. 217). Because of this, there are many regional conventions occurred. The most outstanding example is European Union Convention for the protections of human rights and fundamental freedoms. In this case, those writers raised their distinct ideas but in most circumstances Akehurst(p. 257) and Shaw(p.346) heavily mentioned the preliminary functions of European Union Convention on Human Rights moreover he role of non-governmental organizations was included as well in Goldsmith and Posner(p. 133).

According to Akehurst(p.219), In addition to European Convention on Human Rights, there are other regional conventions like American Convention on Human Right, African Charter on Human and Peoples' Rights existed but Shaw(p.391) added the former OAU Charter named "the Banjul Charter on Human and Peoples' Rights" and the Arab Charter on Human Rights. However, in the book of Goldsmith and Posner(p.117) regional conventions were seen in terms of coincidence of interests, cooperation, coordination, and coercion for human practices of a state. But there is a huge gap how states come up together for protection of human rights.

V. CONCLUSION

When we consider critically the book of Michael Akehurst (1997) with the comparisons to the books M.N. Shaw (2008) and J.L. Goldsmith and E.A. Posner (2005); his work only articulates based on the specific ideas of human rights which touches simple definition, ways of implementation and challenges of it in world and regional level. Unlike Akehurst's view, Shaw pinpointing the most voluminous ideas of human rights in international atmosphere. However, the ideas he raised only the compilations of the human rights convention in world and regional level. And the book of Goldsmith and Posner extensively explained the nature and role of state to implement human rights law internationally, regionally and domestically but it has limited explanations of the role of international organizations and regional once. Indeed, he showed how it is challenging to implement such basic rights of human beings.

From the beginning of human nature the definition of human rights often complex due to different cultural practices, religious influences, ideology and political interferences,

complex nature of state sovereignty, multiple nature of human rights itself make it difficult to come up common consensus. In terms of the ratification of human rights laws and its implementation on the international level still there is a moot point.

Even in the United Nation, that the only compulsory obligation of the state is reporting system. So United Nations itself influences states through soft power instead of hard power since it lacks world judicial system to implement it. Even though there is a problem of implementing human rights law , the world people should stand together since human beings are the only precious creatures that justice and freedom alive on them. Therefore, no one can take away the unconditional and gifted rights of human nature regardless of something else

VI. REFERENCES

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Authors Profile

[1] Addis Alemayehu Kebede1, ,

[2] Agenagn Kebed Dagne2

[3] Melkamu Dires Asabu

1 Researcher and Lecturer at Woldia University, Woldia, Amhara Regional State, Ethiopia

2 Researcher and Assistant Professor of Political Science at Woldia University, Woldia, Amhara Regional State, Ethiopia

3 Researcher and Lecturer at Woldia University, Woldia, Amhara Regional State, Ethiopia

