LouvainX: Louv2.01x International Human Rights

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This section examined the role of domestic authorities in protecting human rights. A core obligation of States (expressed, for instance, in Article 2, para. 3 of the International Covenant on Civil and Political Rights) is to *provide effective remedies* to victims of human rights violations. "Effective" remedies *are not necessarily* "judicial" remedies: even though human rights instruments and human rights bodies do express a preference for allowing courts to enforce human rights, administrative remedies may be sufficient, at least where they present certain minimum guarantees of independence and impartiality, allowing a review of the measure that has allegedly caused the violation. Nor do "effective" remedies require that courts or other national authorities apply directly international human rights law: it is sufficient that they protect the substance of the guarantee concerned, by whichever means this is achieved.

It is in the interest of the State to establish effective remedies that can lead to a cessation of the violation and to compensate the victim where the violation has already taken place. Indeed, where such remedies exist and are accessible, the victim shall generally have to exercise these remedies before filing a claim before an international body. This is referred to as the requirement of the *prior exhaustion of local remedies*, and it is normally a condition for engaging the responsibility of the State.

Even where courts are in principle tasked with protecting human rights, they have sometimes been reluctant to recognize the justiciability of social rights such as the right to food, to water, to education, to health or to housing. We have seen some arguments traditionally put forward againsst the involvement of courts in this regard, and we have examined cases where courts could use inventive strategies to overcome the limitations they face. Though doubts are still expressed concerning the ability of courts to become effective agents of social change, we now have a large set of examples where they have played such a role, increasingly breaking down the distinctions between "classic" civil and political rights, which were traditionally seen as fully justiciable because fitting into the paradigm of individual subjective rights, and the "new" social rights such as those mentioned above.

At the same time, there are are limits to what courts can achieve. We have examined the reasons why non-judicial mechanisms for the protection of human rights were complementary to judicial remedies, and which mechanisms could make a contribution to such protection. We examined in particular the role of national institutions for the promotion and protection of human rights (or "national human rights institutions", NHRIs), established under the 1993 *Paris Principles on National Human Rights Institutions*. A national human rights institution is an advisory body, officially established and State-funded national entity independent from the government, mandated to promote and protect international human rights standards at domestic level. A diversity of NHRIs exist, and various "models" can be distinguished.

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