
RESEARCH ARTICLE

An Examination of International Tribunals' Human Rights Protection and Domestic Binding Power

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ABSTRACT

This comparative research is about the role of international courts in human rights protection and the enforceability of their verdicts within the domestic system. It examines the impacts of international judicial protection in relation to constitutional guarantees enshrined in Iraqi law. The study is premised on the idea that the success of international justice is not determined by the issuance of a ruling, but by the ability to protect constitutional rights and the readiness of the national legal system to accept and adopt the ruling. The study shows that the concept of international judicial protection is built upon the independence of the judiciary and the equality principle, as enshrined in Articles 19 and 14 of the 2005 Constitution of the Republic of Iraq. It also shows that the jurisdiction of international courts pertains to fundamental rights affecting life, security, liberty, and asylum, as indicated in Articles 15 and 21 of the same Constitution. Furthermore, the study clarifies that international protection extends beyond personal rights to include civil and political rights, such as nationality and public participation, as outlined in Articles 18 and 20 of the Constitution. The study concluded that the role of international courts is strengthened when it comes to preventing exploitation and trafficking, and protecting freedom of movement and non-refoulement, in accordance with Article 37(3) and Article 44 of the Constitution. However, the effectiveness of this protection remains limited without domestic legislative harmonization. The study further concludes that the domestic binding nature of international rulings rests on a substantive basis—namely, the protection of pre-established constitutional rights—and a procedural basis related to the constitutional and legislative channels governing their implementation and enforcement.

KEYWORDS

International Tribunals' Human Rights Protection; Domestic Binding Power; international courts

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Section One: The Conceptual Framework of International Courts and the Protection of Human Rights

The conceptual framework of international human rights courts is based on the notion that the protection of a right is not complete simply because it is enshrined in legal instruments but because it is protected by an institution that turns the protections from an abstract value into a legal status. As such, international courts take the form of judicial institutions that scrutinise states' fulfilment of their obligations with respect to rights and freedoms. They strive to uncover the violations, establish the legal responsibility and establish standards of interpretation that set the boundaries of the content of the right and the scope of the power of the state vis-à-vis the right. But this idea can be realised only if the judiciary, as the main means of protection, is independent from political and administrative power. This is why Article 19 of the 2005 Constitution of the Republic of Iraq provides that the judiciary is independent, and subject to no other authority than the law. This is not an organisational characteristic, but a conceptual prerequisite, that guarantees that judicial protection, be it national or international, is applied with a legal, rather than political, power, interest or balance of power, criterion.

The notion of international courts is also related to the subject matter of human rights. They are not only engaged in resolving disputes between parties, but also in overseeing the conduct of public authorities vis-à-vis individual and collective rights, and in examining whether the restrictions on rights have been made in accordance with the law, to the extent required, and in a non-arbitrary way. This role makes the international court more of a body of regulation of legality than a formal body of dispute resolution. But this role is not meaningful in theory without reference to the groundwork for protection within the state. Article 14 of the 2005 Constitution of the Republic of Iraq, which states the equality of Iraqis in front of the law and forbids discrimination on the basis of race, colour, language, origin, religion, sect, social level or

economic status, provides a material basis for judicial protection. This is since the nature of human rights oversight is not only the presence of an independent judge, but also the latter's adherence to the principle of equality and non-discrimination when judging the legality of acts and laws^{1}.

The international judicial nature of human rights protection can be characterised as being twofold. Firstly, it is normative since it clarifies the content of rights and the permissible restrictions on them. On the other hand, it is remedial, because it offers a remedy in the event that national authorities are unable to eradicate or prevent violations. This is why simply thinking of international courts as "external" courts of higher authority over states is insufficient to developing a legal concept of them. Instead, they have to be seen as a functional element of the concept of justice, which should arise within the national legal order. In this regard, the significance of Article 19 of the 2005 Constitution of the Republic of Iraq becomes more evident, given that it restricts the reference of the judiciary to the law, and by doing so, lays the foundation that human rights legitimacy doesn't depend on the will of the rulers but on the authority of the legal rule. Article 14 of this Constitution also provides this legitimacy with a substantive content because a judiciary without equality may be well organised but it may not be able to achieve human rights justice.

A comparative study of national and international judicial protection shows that, while the objective is the same, the level, nature and consequences of intervention are different. National courts are naturally the protectors of rights, and are the closest to the facts and able to prevent violations before they occur. International courts, in contrast, tend to step in where national courts are unable to provide protection or fail to guarantee minimum standards of protection. This, however, does not mean that there exists a conceptual contradiction between the two levels; it means that there is a complementary relationship based on a division of labour. As such, the independence of the judiciary in Article 19 of the 2005 Constitution of the Republic of Iraq is not only a domestic issue but also a measure of the State's ability to comply with protection standards advocated by international law. Likewise, the principle of equality in Article 14 not only prohibits discrimination in domestic laws, but also helps the national judge understand the meaning of rights, thus eliminating the need to refer to the international level.^{1}.

Human rights protection is not founded solely on the declaration of rights, but also on an institutional structure that stops the judiciary from perpetuating human rights violations. When the constitution preserves the principle of judicial independence in Article 19, it is not safeguarding the judge, but rather the litigant from a power imbalance vis-à-vis the state. And when it establishes the principle of equality and non-discrimination in Article 14, it is not establishing a moral principle, but rather a legal standard that can be used to monitor legislation, the administrative act and the judiciary. In this context, it is possible to view international courts as a tool to strengthen this system in those instances where it is diluted, limited or perverted, rather than as a substitute for national courts. This is more correct than the view that reduces the role of international courts to providing declaratory rulings because the value of international courts is not limited to the declaratory nature of their decisions but extends to their interpretative and preventive effects and to the re-establishment of the relationship between the individual and the state on a more reliable legal basis.

The idea of international courts and human rights protection is based on three elements - the independence of the judiciary, the substantive nature of the standard of protection, and the integration of the national and international. Independence is specifically mentioned in Article 19 of the 2005 Constitution of the Republic of Iraq, and substantive standards in Article 14. Integration is derived from the link between these two documents since the independence of a judiciary that upholds the principle of equality allows it to come closer to effectively protecting human beings and closes the implementation gap that calls for the intervention of international courts. Accordingly, the research on international courts in the context of human rights should not be limited to their procedural powers but rather the question of the conditions for a judicial decision to be an instrument for the protection of human dignity. This question has a conceptual basis in Articles 19 and 14 of the 2005 Constitution of the Republic of Iraq which show that the protection of human beings is not realised by the power of law alone but also by the existence of an independent judge who balances disputes on the scales of equality and limits power through the rule of law.

First requirement: The concept of international courts and their jurisdiction in the field of human rights

The notion of international human rights courts is based on their role, not on their structure. They are not only courts that resolve disputes between nations, but rather judicial organs that intervene to resolve disputes in which fundamental rights are infringed, denied or hindered, and where the domestic system fails to provide an effective remedy. This meaning is grounded in Article 15 of the 2005 Constitution of the Republic of Iraq, which provides that each person has the right to life, security and liberty, and the deprivation of these rights can only occur in accordance with the law. The importance of this text goes beyond just the recognition of basic human rights; it shows that there is a domain of human interests that are at the heart and soul of human dignity, and therefore any denial of them is a denial of the essence of legitimacy. Here international courts play a significant role, as their authority is inextricably tied to safeguarding these rights when the state fails to do so effectively, or when their infringement is committed in the name of the law, or of the state itself.

An international court is thus grounded on two aspects. First, the right in question is a right of the highest value and can only be overridden by legal means. Second, this right does not cease to be a human right because it is within the territory of a state. Thus, the rights listed in Article 15 of the 2005 Constitution of the Republic of Iraq (i.e. life, security and freedom) constitute a specific type of rights that justify a jurisdiction that extends beyond the national sphere in terms of monitoring, assessment and interpretation. Life is not just an individual interest, but also a condition for enjoying other legal rights.

Security is not a favour that is granted by the sovereignty under its absolute discretion, but rather an obligation not to arbitrarily jeopardise the individual. Freedom is not the arbitrary permissibility, but a legal right that can only be constrained in a justified manner. All this makes the jurisdiction of international courts in the realm of human rights inherent to the right, not only to the place where it was violated^{1}.

The conceptual aspect of international jurisdiction is evident when considering Article 21 of the 2005 Constitution of the Republic of Iraq, which deals with the right of political asylum, and connects related issues to a law issued by the Council of Representatives. This provision shows that some issues in human rights are inherently international in nature, since they cannot be explained merely as domestic. This is because political asylum is founded on a person's movement from the protection of one state to another for protection outside of the state on the grounds of a legitimate fear and threat concerning his or her political or personal status. As a consequence, asylum is not a mere administrative issue related to the regulation of immigration and residency, but rather it falls under the protection of individuals against persecution, danger or arbitrary deprivation of security. As a result, the jurisdiction of international courts also covers not just direct rights, such as the right to life and liberty, but also the procedural mechanisms that ensure protection of these rights when it is not provided (or is not sufficient), or is not provided in a neutral way.

The jurisdiction of international human rights courts is not concerned with adjudication of every dispute between a state and an individual, but rather those that display an imbalance between power and rights. This can take the form of arbitrary detention, the threat to life, security, or the improper refusal to afford the protection that goes with asylum. This power of the courts should not be understood on the basis of the idea of substituting national courts, but through the idea of observing the degree to which the state complies with the law's limits on access to rights. As such, Article 15 of the 2005 Constitution of the Republic of Iraq, in subjecting the deprivation of life, security and liberty to the law, created a legal criteria by which to judge the legitimacy of public actions. In addition, Article 21 of the 2005 Constitution of the Republic of Iraq highlights that political asylum is not an isolated issue from the logic of protection, but one of the instances in which national and international interests intersect.

The idea of international human rights courts is not complete by referring to their establishment, categories or procedure but also by describing the nature of the rights subject to their jurisdiction. The more a fundamental right relates to a person's legal and material status, the more need for international judicial supervision. And the more a dispute is about a transnational issue, such as in cases of asylum and persecution, the more meaningful the international jurisdiction. This is confirmed by the link between Article 15 of the 2005 Constitution of the Republic of Iraq, which defines the rights, and Article 21 of the same constitution, which unveils a matter of a mixed nature going beyond the domestic level. Thus, it can be observed that the role of international courts in this context is to protect individuals against the abuse of power on one hand and to offer a judicial system that respects the sovereignty of the state and the respect for the minimum rights that are indispensable to the functioning of the law.

The competence of international human rights courts is substantive and not procedural, for it refers to the nature of the right to be protected and the type of threat to it. Life, security and liberty represent the main area of this protection, but political asylum shows that it can also be provided beyond the state's borders. Thus, the idea of an international court should not be understood as an external court that issues binding decisions against states, but rather, a mechanism for asserting that fundamental rights are not at the mercy of unilateral decisions of the domestic authorities. This is reflected in the Article 15 and Article 21 of the 2005 Constitution of the Republic of Iraq. The former establishes the meaning of the rights that are entitled to the highest level of protection, while the latter points out that some forms of protection are necessarily international. In this sense, the proper meaning of international courts and jurisdictions is defined as a judicial protection in response to any serious threat to fundamental human rights, be they within states or beyond borders.

Second requirement: The nature of international judicial protection of human rights

The character of international judicial protection of human rights is defined by its goals, the methods of its realisation and the implications of its success. This protection is not confined to asserting the existence of rights, or reaffirming their moral legitimacy, but rather it seeks to protect the legal status of individuals when it is violated or unjustly limited. This sense is clearly enshrined in Article 16 of the 2005 Constitution of the Republic of Iraq, which states that equal opportunities are considered a right for all Iraqis. The recognition of this right manifests the fact that protection of human rights is not limited to preventing direct violation, but also includes removing forms of exclusion and discrimination that result in its violation. Moreover, Article 17 of the 2005 Constitution of the Republic of Iraq indicates that the right is protected with regard to the personal right, the sanctity of the home, the right to establish Iraqi nationality and the prohibition of its removal. This suggests that the object of judicial protection does not only relate to the private domain of the individual, but also to his/her general status as a legal person in the political community.

The international judicial character of protection is, in the first place, oriented towards the substance of the right, and not just the form of the procedure. The International Court of Human Rights does not limit itself to checking the existence of an act, decision or official procedure; it rather ensures that a right's substance is affected, that it has not been subjected to an "empty formalism" of law. In this regard, Article 16 of the 2005 Constitution of the Republic of Iraq, which guarantees equal opportunities, did not simply create an abstract administrative rule, but rather, it established an objective rule that can be used to assess the equitable nature of legal treatment and its compatibility with the principles of actual equality. Likewise, Article 17 of the 2005 Constitution of the Republic of Iraq not only guaranteed personal rights, but granted them legal

immunity, rendering their violation subject to strict scrutiny. Hence, international judicial protection is implicitly geared towards the content of the right and its effective limitations, rather than its formal aspect{1}.

It is also a dual protection that has a preventive and remedial nature. The preventive function is demonstrated in the function of international judicial organisations in setting interpretative boundaries that prevent the expansion of constraints on rights before they are violated or violated further. The remedial function is reflected in the determination of responsibility for the violation, and the requirements for remedy or restoration of the right. This inherent nature can be deduced from the link established between Article 16 and Article 17 in the 2005 Constitution of the Republic of Iraq because equal opportunities are not ensured just by eliminating the harm; they are ensured by creating a protection that prevents monopolising the benefits or denying them to others. Likewise, the sanctity of homes and the right to nationality are not protected merely by compensation for the loss, but by safeguards preventing arbitrary interference and preventing expulsion of a person from his/her status and protected personal life.

The nature of international judicial protection is also complementary as opposed to Ersatz. Although the state has the primary responsibility for the protection of rights through its organs, the international nature of protection arises when national justice fails to offer even the minimum guarantees, or when the breach is connected with a legal/administrative system that is not sufficiently independent. In this context, international judicial protection doesn't replace domestic law, but rather assesses and refocuses it on standards that ensure the right is guarded in terms of its substance and its results. This is consistent with Article 16 of the 2005 Constitution of the Republic of Iraq, as there can be no equal opportunity if this is left to the discretion of administrative bodies in a way that results in unequal treatment in the enjoyment of rights and status. It also coincides with Article 17 of the 2005 Constitution of the Republic of Iraq because the protection of housing, nationality and other personal rights requires supervision to intervene in circumstances where domestic regulations are used as a means of breaching what should be protected and guaranteed.

This objectivity of international judicial protection is also reflected in its method of not protecting rights as individual elements, but rather understanding them in a network of rules, in which each rule affects other rules. For instance, a breach of the sanctity of the home as mentioned in Article 17 of the 2005 Constitution of the Republic of Iraq is not only a breach of a private right, but also a breach of personal security, peace and freedom. Similarly, the withdrawal of citizenship or its unjustifiable restrictions do not only impact a formal relationship, but also affect a person's ability to exercise public and private rights, and seek redress. Similarly, the deprivation of equality of opportunities, as guaranteed in Article 16 of the 2005 Constitution of the Republic of Iraq, does not only impact on social or professional competitions, but can cause subtle forms of discrimination that undermine the enjoyment of other rights. Thus, international judicial protection is not only holistic, as it checks the system of rights in their interconnected nature, rather than in their artificial segregation{1}.

The last characteristic of this protection is that it is normative and interpretative. It is normative because it relies on rules that can be invoked against the state and it is interpretative because it establishes the operational meaning of rights and delimits the extent of the state's power to restrict them. This is where the significance of Articles 16 and 17 in the 2005 Constitution of the Republic of Iraq lies, as they show that protection is not only related to public rights, but also to personal rights, and the constitutions of both are protected under a single legal framework of the legal dignity of the individual. Thus, the nature of international judicial protection of human rights can be defined as legal protection against the illegitimate infringement of personal and public rights, which aims to eliminate its effects if it occurred, and which creates a binding understanding of its meaning to avoid its repetition in the future. However, this definition is not based on a theoretical idea but on the Constitution of the Republic of Iraq of 2005, Article 16, which contained the principle of equality of opportunity, and the Constitution of the Republic of Iraq of 2005, Article 17, which assured personal rights, the sanctity of homes and the right of citizenship. So, it seems that international judicial protection is ultimately directed towards the protection of man in his privacy, in his status and in his equal opportunity to enjoy rights without discrimination.

Section Two: The Role of International Courts in Promoting the Protection of Human Rights

The contribution of international courts to the protection of human rights is a logical continuation of the concept that constitutional rights do not reach their full meaning just because they are stipulated, but also because there are judicial methods that can turn them into effective protection. This sense is clearly present when we read Article 37, Paragraph 3 of the 2005 Constitution of the Republic of Iraq, where forced labour, slavery, the slave trade, the trafficking of women and children and the sex trade are prohibited. This text not only creates a moral prohibition, but defines one of the most gross violations of human dignity. This is also evident in Article 44 of the 2005 Constitution of the Republic of Iraq, which protects freedom of movement, travel and residence in Iraq and abroad, as well as forbids exile, deportation and refusal to return to one's country. These two examples show that international courts are fundamental in improving protection in cases where the violation concerns the freedom of body, liberty, mobility, residence, and nationality of the individual{1}.

The crimes specified in Article 37, Paragraph 3 of the 2005 Constitution of the Republic of Iraq are not usually random acts, but involve systematic practices, systems of exploitation or policies that are facilitated by inadequate domestic protection and law enforcement. In this context, international courts play a role in breaking the cycle of impunity, because they not only consider the act from a partial point of view, but link it to the structure of the attack on human dignity. The exploitation of women or children, or forced labour, is not only a violation of freedom, but also of reducing the human being to a commodity and depriving them of their citizenship. Thus, international justice helps to enhance protection by

upgrading these acts to a serious nature that should be closely monitored and subjected to wider control by the State, since it should prevent, investigate, and punish them.

The function of international courts is also associated with the substance of the rights because, despite the role of constitutions in this regard, they still need to be interpreted in order to clarify the scope and effects of the right, and the permissible restrictions. In this regard, Article 44 of the 2005 Constitution of the Republic of Iraq is particularly significant as it not only recognises freedom of movement between places, but also creates an important field of personal liberty concerning choice, residence, return, and non-refoulement. The role of the international court here goes beyond declaring deportation and exile unlawful, but rather setting a judicial standard to clarify when state intervention is justified and when it merely constitutes a denial of legal security. This judicial interpretation reinforces protection because it does not leave the discretion of the authorities to be based on general concepts or vague motives to restrict movement, deport people from their country, or impede their return, and so turns the constitutional right into a verifiable and enforceable right.

The utility of international courts also lies in the deterrent function, because the strengthening of protection is not only achieved by eradicating the violation, but by making it more unlikely to occur in the future by making it more difficult. The knowledge that there will be international oversight of the actions of authorities or other entities responsible for exploitation, trafficking or illegal expulsion, which can detect, qualify and determine responsibility for the violation, constrains the possibilities for abuse and incentivises the behaviour of those responsible to follow the law. This effect is analytically based on Article 37, Paragraph 3 of the 2005 Constitution of the Republic of Iraq, because the prohibition on human rights violations contained therein refers to sophisticated forms of human rights violations that can only be deterred by criminalization if accompanied by rigorous monitoring. It also finds its basis in Article 44 of the 2005 Constitution of the Republic of Iraq because the right to freedom of movement and return to the country of origin is ineffective if it can be derided by administrative and political measures that are not subject to checks and balances outside national power when needed{1}.

The role of international courts is not merely to establish responsibility; it is also to restore the harmony between the individual and the state when it is violated in a manner that affects the very core of human rights. The state, of course, has the power to regulate borders, residence and mobility, as well as to prevent crime and abuse. But this should not be used as a cover-up for infringing on the rights that were meant to be protected. This is where the corrective power of international justice plays a vital role in distinguishing between the right of the state to regulate power and the use of this power in a way that results in coercion, deportation, trafficking or arbitrary restrictions. This is especially relevant to article 44 of the 2005 Constitution of the Republic of Iraq, as a ban on exile, deportation and refusal to allow return to the homeland sets a material limit to the state's power to decide on the fate of individuals. Moreover, the state's positive obligation in Article 37, Paragraph 3 of the 2005 Constitution of the Republic of Iraq not only requires the state to refrain from exploiting a person, but also to prevent it and to punish its various manifestations as violations of the fundamental principles of human rights.

The importance of the role of international courts in enhancing human protection is that they convert the texts that guarantee human rights into control standards, where the recognition of the right is connected with the possibility of its judicial defence in the case of its violation. This is the case with the rights enshrined in Article 37, Paragraph 3 of the 2005 Constitution of the Republic of Iraq, which guarantees an individual's freedom from slavery, exploitation and human trafficking, and the rights enshrined in Article 44 of the same Constitution, which guarantees freedom of movement, travel, residence and return to one's country. This means that the importance of international justice does not only come from it being a permanent substitute for national courts, but also from its capacity to complement the protection of rights, interpret the law and hold the state accountable in those cases in which national protection mechanisms cannot provide the necessary level of justice. In this regard, the role of international courts in this area is simultaneously protective, preventive and reparative because it prevents people from having their bodies, spaces or movements objectified as a means of domination, exploitation and exclusion by power.

First requirement: Manifestations of the protection of rights and freedoms through international provisions

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The international legal principles have the potential to convert legal rights that are enshrined in the constitutions into legal guarantees that are protected against infringement and interference. This is evident in Article 18 of the 2005 Constitution of the Republic of Iraq that states that Iraq nationality is a right for every Iraqi and the basis of their citizenship. This is because the wording of this text does not regulate a formal status between the individual and the state, but rather it defines a legal status from which all other civil and political rights flow. Likewise, Article 20 of the 2005 Constitution of the Republic of Iraq guarantees the right of all citizens (men and women) to participate in the public life and to exercise political rights, including the right to vote, be elected and to hold public office. This shows that judicial protection does not only concern the status of the individual as a legal person, but concerns his or her status as a public person as a member of the political community.

This protection is primarily reflected in the protection of the bond of nationality against any illegal interference because international human rights law considers the bond of nationality as the foundation of legal personality and the gateway to the enjoyment of a number of other rights. When the 2005 Constitution of the Republic of Iraq in Article 18 states that Iraqi nationality is a right for every Iraqi, this turns the bond of nationality from an administrative privilege to a right that cannot be arbitrarily used as a lever for coercion or punishment according to the decisions of governmental authorities. This is

where international jurisprudence de-emphasises the logic that considers nationality a privilege that can be used as a means of blackmail, exclusion or even punishment. Violation of nationality not only changes the legal status of the individual, but also their right to participation, protection and identity. Thus, international law affirms that nationality is not a favour that can be arbitrarily revoked, but rather a legal right that needs to be protected from within the confines of legitimacy and justice^{1}.

The second point is enshrining political rights as part of the judicial protection of freedom because public participation is not an incidental organisational issue, but rather an expression of recognising the citizen's will and their ability to influence the public decision-making process. The 2005 Constitution of the Republic of Iraq enshrines the right to vote, elect and be elected for both men and in Article 20, the principle that citizenship is not complete without the equal exercise of political rights. International conventions therefore intervene to protect this right from illegitimate restrictions, unwarranted discrimination or effective prohibition, which renders it ineffective. The importance of these conventions is not just in condemnation of explicit bans, but also in exposing forms of subliminal bans that may be concealed in the guise of procedural rules or regulatory measures that are, effectively, exclusionary. In this sense, the protection of participation becomes both a substantive and not just a formal protection in court.

The third aspect is reflected in the link between the two rights as stipulated in the 2005 Constitution of the Republic of Iraq (Articles 18 and 20). International practice shows that the protection of nationality and the protection of political participation are not two distinct matters, but are intimately related. Nationality is the basis of citizenship and citizenship is the vehicle for the exercise of political rights. As such, any imperilment to the former often results in the deterioration of the latter or even its extinction. Thus, international standards show their respect for rights and freedoms by forbidding the authorities from breaking this link. Contestations of national identity cannot be a tool to exclude citizens from public life, nor can political participation be undermined. This analysis enables us to distinguish between the structural aspect of judicial protection, which protects the whole legal system of rights, not just individual rights.

International decisions not only deal with the consequences of violations of rights *ex post*; they also have a normative dimension, informing the domestic interpretation of rights and curbing the unfettered exercise of power. When international courts confirm that the right to nationality is an inalienable right, which can only be limited within the narrow confines of legality, they steer national authorities to understand Article 18 of the 2005 Constitution of the Republic of Iraq in terms of the protection of rights, rather than a wide interpretation against the individual as an administrative matter. Likewise, their focus on political participation as an essential element of citizenship makes Article 20 of the 2005 Constitution of the Republic of Iraq a set of positive obligations for the state, instead of just a formal process for voting and candidacy. In this way, international decisions enhance protection by avoiding misinterpretation and by establishing an interpretation of rights that accords with their purpose: to allow people to remain a member of the legal and political community^{1}.

The protection of rights and freedoms in international law is obvious in the context of civil and political rights in which membership and participation are the starting points of any legal system. Article 18 of the 2005 Constitution of the Republic of Iraq did just that, by entrenching Iraqi nationality as a right for every Iraqi and the foundation of citizenship. Article 20 of Iraq's constitution also reinforced this foundation by ensuring the right of all citizens, men and women, to participate in public affairs and exercise political rights. These two articles allow us to conceptualise the role of international law in the protection of the legal tie between the individual and the state, and the prevention of abuse of power that seeks to exclude citizens from the public sphere, undermine their national identity or weaken their political capacity. These instances make it clear that the judicial protection of rights found in international law is not peripheral to rights, but central, protecting the citizen's legal status, their political capacity and their right to be subject to the law, not a subject of the state's domination. Second requirement: The limits of the effectiveness of international courts in protecting human rights

The effectiveness of international courts in protecting human rights is limited by their ability to move from establishing principles to producing tangible results within the national legal system. International rulings, however persuasive or legally binding, do not operate in a vacuum. They inevitably encounter a domestic structure of legislation, institutions, and enforcement mechanisms that can either enhance or diminish their impact. This reality reveals that international protection is not an end in itself, but rather a stage in a broader process that begins with identifying the violation and is only completed by eliminating its root causes and enabling the rights holder to effectively benefit from protection. From this perspective, domestic laws become crucial in measuring the effectiveness of international justice, because the true test lies not in the moment the ruling is issued, but in the extent to which national legislation responds to the requirements of equality and non-discrimination and restores balance to the legal position that has been disrupted.^{1}

This meaning is clearly illustrated by Law No. 38 of 2013, concerning the care of persons with disabilities and special needs, Article 15, Paragraph 4, Clause B, which stipulates the creation of employment opportunities for persons with disabilities. The text reveals that protecting this group is not achieved merely by acknowledging their dignity or equality, but requires practical legislative measures that remove the obstacles preventing their integration into public life. Herein lies the limitation of the effectiveness of international courts, because a ruling that establishes discrimination or proves a violation of the rights of persons with disabilities is insufficient in itself unless it finds in domestic law enforceable instruments that accommodate the implications of this ruling. If employment opportunities remain practically unavailable, or if legislative obligations remain within the realm of declarations unaccompanied by enforcement and monitoring mechanisms, then the

international judicial impact remains limited, because protection then becomes a theoretical recognition that only minimally alters the legal and social reality.

The same applies to Personal Status Law No. 188 of 1959, as amended, Article 7, concerning the legal capacity for marriage and the requirement of mental capacity and completion of eighteen years of age. This text highlights that certain areas of human rights protection are closely linked to the domestic legislative framework governing personal status matters. International courts cannot fully exert their influence in these areas unless national law is properly drafted and effectively implemented. Legal capacity for marriage is not a mere formality; it is connected to freedom of will, the protection of minors, the prevention of exploitation, and the preservation of human dignity within family relationships. Therefore, the effectiveness of international protection in this area depends on the extent to which domestic legislation aligns with standards that prevent coercion, exploitation, or the infringement of individuals' legal capacity. If domestic law is clear regarding the conditions of legal capacity but suffers from deficiencies in implementation or lax oversight, international rulings, even if they reveal the shortcomings, remain unable to provide complete protection unless a serious national response is undertaken to bridge the implementation gap.

A comparison between the two texts confirms that the effectiveness of international courts is limited not only by the nature of international justice itself, but also by the nature of the rights being protected. In the area of the rights of persons with disabilities, according to Law No. 38 of 2013 on the Care of Persons with Disabilities and Special Needs, Article 15, Paragraph 4, Clause B, the state is required to make continuous positive commitments to create employment opportunities. This means that implementation is not limited to refraining from harmful acts, but also necessitates successive policies, legislation, and administrative procedures. As for the rights of marriage, according to the Personal Status Law No. 188 of 1959, as amended, Article 7, protection requires legal and judicial oversight that prevents infringement upon the will or circumvention of the age and mental capacity requirements. In both cases, the international court cannot replace the national legislature or the national administration; rather, its function remains limited to determining violations, guiding interpretation, and obligating the state to rectify the situation. Thus, the effectiveness of international justice is determined to the extent that it finds within the country a legal framework capable of responding to rulings, not merely static texts.^{1}

One of the most significant limitations is that equality and non-discrimination are not achieved by the mere existence of a legal text, but rather by its translation into tangible results. For example, Law No. 38 of 2013, concerning the care of persons with disabilities and special needs, Article 15, Paragraph 4, Clause B, stipulates the creation of employment opportunities for persons with disabilities. However, the fact that this commitment remains at the level of a slogan or non-binding plan limits any potential impact of international monitoring in this area. Similarly, Article 7 of the amended Personal Status Law No. 188 of 1959 establishes the criteria for eligibility for marriage, but its effectiveness remains contingent upon the ability of judicial and administrative institutions to prevent circumvention and ensure respect for the conditions that protect individual will, age, and mental capacity. Therefore, while international rulings may succeed in revealing normative or practical shortcomings, they only achieve their full potential when coupled with a domestic will to respond to them legislatively and practically. In the absence of such a will, international protection becomes limited in its impact, as it confronts a legislative or institutional reality that fails to translate its provisions into concrete, daily protection.

The analysis concludes that the effectiveness of international courts in protecting human rights remains relative and conditional, not due to any inherent weakness in the concept of international justice, but rather to its partial dependence on the domestic legal environment that receives and implements the ruling. Law No. 38 of 2013, concerning the care of persons with disabilities and special needs, Article 15, Paragraph 4, Clause B, reveals that protecting equality necessitates a positive commitment to creating employment opportunities. Similarly, Article 7 of the amended Personal Status Law No. 188 of 1959 indicates that preserving dignity within family relations requires a precise definition of the eligibility criteria for marriage and strict adherence to them. These two texts demonstrate that the limits of international protection begin where the abstract effect of the ruling ends and the requirements for national implementation commence. Therefore, international courts play a crucial role in uncovering violations, formulating standards of protection, and guiding the state toward rectification. However, the completeness of this protection remains contingent upon the suitability of domestic legislation and its practical responsiveness, because human rights justice is not established merely by the issuance of a ruling, but rather by its ability to translate into a legal and social reality that prevents discrimination and guarantees genuine equality.

Third topic: The extent to which international court rulings are binding on the domestic legal system

The question of the enforceability of international court rulings in the domestic system arises from the way an international judicial rule or decision is enforced in a domestic system. The domestic binding nature of an international ruling is not based on its mere issuance in the international arena, since its domestic enforcement is still subject to the constitutional framework that determines the sources of obligation and the ways of introducing it into the juridical system. Thus, the significance of Article 19 in the 2005 Constitution of the Republic of Iraq is revealed. It provides that the judiciary is independent and shall not be subject to any other authority except the law and that there shall be no crime or punishment except by the law. This article shows that any consequence that intends to be effective in domestic enforcement must be based on law, and not on political or social will. So, domestic enforcement of international decisions is not based on the notion of abstract submission to international society, but on the existence of a constitutional system that links international obligations with the domestic enforcement system^{1}.

The independence of judges is not only a legislative provision, but also a condition for determining the nature of domestic bindingness of international rulings. Article 19 of the 2005 Iraqi Constitution of the Republic of Iraq provides that the judiciary shall be independent and only subject to the law, which means that the national judge will not implement international obligations as an administrative or political order, but rather within the limits of the legal system. In this respect, the domestic binding nature of international judgements depends on the ability of the national judiciary to receive them in a legitimate way, rather than in a way that favours some parties over others, or in a way that is susceptible to international pressure. This view gives domestic binding force a legal nature, thus avoiding any possibility of the implementation of international judgments becoming subject to the discretion of power. Equally importantly, it prevents the judiciary from being exposed to an effect that is not supported by legislation or constitution of the state.

The principle of legality, as stated in Article 19 of the 2005 Constitution of the Republic of Iraq, draws a line between the recognition of the legal validity of an international judgment and the potential for its direct effect in the domestic jurisdiction, especially with regard to issues of criminalisation, punishment or coercion. The provision's provision that there is no crime or punishment except by legal provision suggests there is no provision in domestic law for a penal or coercive effect to be created by simply referring to a judgment issued outside of the domestic legislative framework. Thus, while the obligation of an international judgment may be present in the national system in principle, it does not enjoy direct effect unless the means, limits and effects of the application of the international judgment are explicitly provided for by a national provision. This would indicate that obligation is not monolithic, but varies from interpretative or persuasive, or legal and political obligation, to executive enforcement. This, however, is dependent on the availability of a legal basis in national law^{1}.

This reading is supported by taking a look at Article 60, Paragraph 2, and Article 73, Paragraph 3, of the 2005 Constitution of the Republic of Iraq, the two texts on which the process of the adoption and ratification of laws is founded. These texts are significant not only from the point of view of constitutional procedures, but also from the point of view of demonstrating that domestic obligation is only established through the channels provided by the Constitution to produce, promulgate and create the binding effect of the rule. Although an international ruling creates an obligation for the state in the international realm, its integration into the domestic system as a part of the legal system depends on going through the legislative and constitutional process that makes the rule enforceable against the authorities and individuals. So, Article 60, Paragraph 2, and Article 73, Paragraph 3, of the 2005 Constitution of the Republic of Iraq give us the context for answering why an international ruling is not necessarily self-executing, but may need a domestic basis, which determines its acceptance and application.

The binding nature of international court rulings on domestic law is based on a differentiation of two related levels. The first one is recognition, which means the recognition that the international ruling creates an obligation for the state which cannot be overlooked in the public law domain. The second level is implementation, meaning how this obligation is given a particular effect in practice for the courts, the executive and other authorities.

This second level is regulated by Article 19 of the Republic of Iraq's Constitution in 2005, which ties the judiciary to the law and penalties to the text of the law. At the same time, Article 60, Paragraph 2, and Article 73, Paragraph 3, of the same Constitution provide that the creation of binding effects in domestic law is done through certain constitutional and legislative processes. So, the problem is not the intrinsic value of international judgments, but the means through which they are transferred from the international to the domestic level without breaching the principle of legality and the separation of powers enshrined in the Constitution^{1}.

The issue of the validity of international judgments in the domestic legal system is not a theoretical one to be answered with a simple yes or no. It is a structural problem that regards the place of international judgments in the hierarchy of sources and the possibility that the constitution offers for their enforcement. If there is a provision in the domestic law that allows for the enforcement of these judgements, and if there is an independent judiciary that deals with them in accordance with the law, the international judgement can be applied directly or indirectly, depending on the judgement's nature. But if this is not the case, or if it does not fully exist, the binding nature of the international judgment is limited, meaning that it will remain valid in its own terms, but it will be difficult to transform into a binding national instrument. In this sense, Article 19 of the 2005 Constitution of the Republic of Iraq displays the critical condition for enforcement, whereas Article 60, Paragraph 2, and Article 73, Paragraph 3, of the Iraqi constitution displays the forms that allow this enforcement to be properly constitutionalised.

The enforceability of international court rulings in Iraqi law can only be understood in terms of the relationship between the independence of the judiciary, the supremacy of law and the constitutional procedure for the enactment and ratification of laws. Article 19 of the 2005 Constitution of the Republic of Iraq provides that judges are bound only by the law, and that punishments are determined by law, thereby avoiding any domestic enforcement that is not based on the law. In addition, Article 60, Paragraph 2, and Article 73, Paragraph 3, of the 2005 Constitution of the Republic of Iraq provide that, in order to achieve domestic enforcement, it must be through constitutional processes, which give the external obligation its domestic binding effect. Hence, an international ruling, no matter how important, is only fully binding domestically if it is based on a constitutional and/or legislative framework that allows for its implementation, and determines its content and scope. This is what is meant by the extent of domestic enforcement, given that it is a combination of respect for international obligations and safeguarding the national constitutional order.

First condition: The legal basis of the binding effect of international rulings

The legal basis for the binding nature of international rulings domestically lies in the fact that an international ruling has value in the national legal system not because of its source or origin, but because of its link to the rights recognised and safeguarded by the national constitutional system: This is clear in Article 14 of the 2005 Constitution of the Republic of Iraq, which provides that all Iraqis are equal before the law without discrimination, and in Article 15, which provides that life, security and liberty are inherent rights, and cannot be denied except by law. The importance of these two articles is that the constitutional system did not consider human rights as something that is supplementary to the legal system, but as a component of the legal system itself.

Hence, the domestic binding nature of international rulings concerning these rights does not find its basis in the foreign value, but rather in the judicial means of affirming a pre-established constitutional content.

The domestic binding quality of international human rights rulings has its objective foundation in the congruence of the ends of constitutional and international protection. When an international court affirms the need for discrimination prevention, the protection of freedom or the preservation of personal security, it does not, in fact, establish a new right that has no domestic basis, but it clarifies the content of a right that is already protected by the national constitution. In this context, Article 14 of the 2005 Constitution of the Republic of Iraq is of fundamental importance, as it establishes equality as the underlying principle in the relationship between the person and the state, and prohibits distinctions based on race, religion or social status from being used to reduce legal status. Article 15 of the same constitution also plays a similar foundational role, in that it states that life, security and freedom are not favours bestowed by the state, but rather fundamental rights that can only be interfered with in the circumstances permitted by law. As such, the domestic enforcement of an international ruling becomes a realisation of the constitution, not an infringement upon it^{1}.

This is evident when we analyse the formal and substantive sources of obligation. The formal source is the constitutional and legal framework which enables the integration of the international obligations into the domestic legal framework; the substantive source is the inherent value of the right being implemented and its constitutional ranking. The substantive source in regard to human rights seems more clear because if an international ruling is about equality, life, security or freedom, this is equivalent to a constitutional provision in the 2005 Constitution of the Republic of Iraq in Articles 14 and 15. This coherence provides the international ruling with the necessary legitimacy in the Iraqi legal system as its failure to be implemented or its failure to be taken into account becomes an equivalent to breaching the constitutional obligations. Thus, the binding nature of the international ruling is not based here on the primacy of a commitment to an external source, but rather on the need to preserve an inherent national right that has already been obliged by the Constitution to be protected and not violated by authorities.

The domestic basis of obligation is also clear in the interpretive role of international judgments for elucidating constitutional rights. Local texts, despite being extremely specific, still need to be explained in terms of their limits and application, especially when it comes to concealed discrimination or to restrictions that are expressed in terms of regulation, but that interfere with the essence of freedom and security. In this context, international judgments can be an expedient instrument in explaining the meaning of Article 14 of the 2005 Constitution of the Republic of Iraq, which defines the principle of substantive (not formal) equality. They also help to clarify Article 15, which clarifies the conditions under which deprivation of liberty or infringement upon security is a legal right, and when it is a formal interpretation of the text to hide an illegal deprivation. Thus, domestic duty extends beyond fulfilling the meaning of the judgment, which includes not only its literal interpretation, but also the interpretation of the judgment, which enhances the protection of the Constitution and avoids its weakening^{1}.

This is particularly so when the dispute is one involving practices or policies that affect marginalised and vulnerable groups or classes. The equality principle, mentioned in Article 14 of the 2005 Constitution of the Republic of Iraq, does not play its role in the law if it is interpreted only as a formal ban on apparent discrimination. It should also involve dealing with the effects of any regulation or practice resulting in unjustified discrimination or interference. Likewise, the right to life, security and liberty as enshrined in Article 15 of the 2005 Constitution of the Republic of Iraq is not satisfied by refraining from direct violence. It demands the government to abstain from anything that undermines these rights under the pretext of legality. Thus, international provisions that expose national deficiencies in this regard are given domestic application because they re-establish the national application in line with the constitutional purpose and to avoid the abuse of power in the application of the law in a way that undermines the right it is intended to protect.

Domestically, the legal grounds for implementing the rulings of international human rights procedures are based on the fact that these rulings apply to constitutional rights that are prior to the ruling, and not to the creation of new rights that come from outside. Article 14 of the 2005 Constitution of the Republic of Iraq declared the principle of equality and non-discrimination as an overall legal justice, while Article 15 of the same constitution declared the life, security and freedom of the individual as constitutional rights that cannot be violated except by law. These two provisions show that the domestic enforcement of international rulings is not only an obligation vis-à-vis the outside world, but also, in fact, an implementation of rights that the constitution originally enshrined and mandated the government to implement. Hence, the domestic importance of an international ruling increases to the extent that it is related to these rights, as its implementation becomes a natural part of the constitutional legitimacy. In contrast, failing to implement it or impeding its implementation

is a two-fold violation of the international obligation as well as the national constitutional basis that requires the protection of equality, life, security and freedom.

The second requirement: Obstacles to implementing international rulings and mechanisms for their internal activation

The challenges in the implementation of international judgments in the domestic legal system are related to the relationship between a judgment rendered in the international arena and domestic means required to give it effect. The function of a judgment cannot be accomplished merely by its issuance, as its enforcement is dependent on the presence of a legal and administrative framework that is receptive to its enforceability and enables its implementation. This is evident in Article 21 of the 2005 Constitution of the Republic of Iraq, which ties the matter of the right of political asylum to a law passed by the Council of Representatives. This interconnection demonstrates that some of the rights with international dimension cannot be protected without specific laws to determine the conditions, guarantees and procedures. Moreover, Article 44 of the 2005 Constitution of the Republic of Iraq states that the freedom of movement, travel and residence and the prohibition of exile, deportation or denial of the right to return to one's country are constitutional guarantees. As such, any shortcomings in enforcing international decisions in this regard are related to the recognition and non-interference of these guarantees by domestic means^{1}.

First, it is related to the lack of adequate legislative frameworks or their being not enacted in a timely manner. Rights that need a detailed legislative framework are susceptible to practical uncertainty, despite a clear constitutional status. Despite the fact that Article 21 of the 2005 Constitution of the Republic of Iraq provides that the regulation of the right to political asylum shall be enacted by the Council of Representatives, this shows that the effectiveness of implementing any international ruling on this right is still limited unless there are national regulations that specify the conditions for granting protection, the procedure for reviewing applications, the right to appeal and, the scope of administrative discretion. Without such regulation, the obligation remains a theoretical principle that is hard to translate into practice and the administration has more discretion over the status of individuals in the absence of regulation. So, the lack of regulation is not just a formal gap, but also a substantive obstacle because it hampers the transition of the international ruling from the theoretical level to the practical level.

The second problem is the possibility of administrative restrictions that will curtail rights to the point where international rulings are rendered irrelevant, in the areas of freedom of movement, residence and return. Article 44 of the 2005 Constitution of the Republic of Iraq not only guarantees the freedom of the Iraqi citizen for movement, travel and residence inside and outside Iraq, but also his/her exile, deportation or prohibition from returning. The content of these provisions suggests that the default in this field is freedom, not prohibition; or guarantee, not restriction. But administrative practice may directly or indirectly prohibit through prohibitive or complex procedures, or by an excessive application of security or public order concerns. This poses a tension between the content and implementation of constitutional protection. This may result in an international ruling confirming an individual's right or concluding that a violation has taken place, but the implementation of the protection may be impractical in the context of an administrative practice that does not amend its practice to comply with the ruling.

The third barrier has to do with the interdependency between constitutional, legislative and executive processes. Although a right may be affirmed, the absence of a consistent approach between these levels might obstruct or even obstruct the right. For instance, the right to political asylum, as enshrined in Article 21 of the 2005 Constitution of the Republic of Iraq, needs to be backed by a clear law. But if this law is adopted in a way that is inconsistent with constitutional guarantees, or if it grants wide discretion to the unfettered discretion of the administration, it does not achieve its purpose and could even be used to limit protection. Likewise, the right to movement and return, as provided for in Article 44 of the 2005 Constitution of the Republic of Iraq, may be violated if it is not complemented by executive procedures that guarantee prompt implementation, an assigned jurisdiction and the option of an appeal against restrictive measures. Thus, the issue is not always just the absence of a legal text, but rather the lack of adequate coordination between constitutional, legislative and administrative implementation mechanisms to ensure their effectiveness and the effectiveness of any international judgement that should be enforced internally.

Domestic implementation mechanisms need to be coordinated with legislative rules that enable the content of international law to be implemented through the means of the domestic system. This requires, firstly, finalising the regulatory framework mentioned in Article 21 of the 2005 Constitution of the Republic of Iraq so that it defines the conditions, guarantees, and procedures for political asylum and avoids leaving it to a large discretionary power of administration without a standard. Secondly, it requires reviewing all rules or procedures that may infringe upon freedom of movement, travel or return, in line with Article 44 of the 2005 Constitution of the Republic of Iraq, because implementation is not just a matter of legislating new provisions, but also removing provisions or practices that prevent the implementation of existing guarantees. This alignment should be substantive, not formal; that is, it should seek to ensure the protection of the right in its substantive form, not merely by changing the wording without any change to the status of the individuals, or the mechanisms of protection.

The alignment is supported by judicial and administrative measures that ensure the implementation of international rulings is part of the legitimacy of the national system, not an exceptional measure. When the right is political asylum, implementation of the ruling entails that relevant domestic authorities follow the framework that stems from Article 21 of

the 2005 Constitution of the Republic of Iraq and act within the framework of a clear law that is subject to judicial scrutiny. Likewise, when it relates to freedom of movement, deportation, and right to return, implementing the ruling requires the nullification or modification of any decision that is inconsistent with Article 44 of the 2005 Constitution of the Republic of Iraq and subjecting decisions that restrict freedom to careful scrutiny to ensure a continued curtailing of rights does not take place. As such, the key to implementation is the domestic establishment of a framework, starting from a law, followed by implementation, and then judicial review, so that international judgements are not left to languish between theory and inaction.

The main barriers to the implementation of international rulings domestically are found in the absence of legislative regulation, when the right in question is to be regulated by special laws, and the continued curtailing of rights through administrative procedures, in a way that conflicts with constitutional guarantees. This is evident in Article 21 of the 2005 Constitution of the Republic of Iraq, which ties the right to political asylum to a law passed by the Council of Representatives, and in Article 44 of the same Constitution, which guarantees freedom of movement, travel, and residence, and bans exile, deportation and preventing return to the country. As a result, the implementation of international judgements is only possible by adapting laws and procedures to these constitutional guarantees, and by removing any contradiction between the text and the guarantees due. Therefore, implementation is not a merely subsequent procedural aspect, but it is a real test for the domestic system's capacity to institutionalize international obligations in the form of concrete justice, which protects rights, guarantees freedoms and prevents evasion of the guarantees provided by the Constitution.

Conclusion

This study has shown that the role of international courts is vital for the protection of human rights, not in an absolute sense, but in a supervisory, interpretative and corrective function of national courts that intervene when national protection is insufficient or not in accordance with the requirements of legal rights. It became apparent that the significance of this role is not just limited to merely making judgements about violations, but in setting legal norms that govern the relationship between power and rights, and channel national implementation to protect life, security, liberty, equality, nationality, public participation and freedom of movement.

The study also revealed that the domestic binding nature of international provisions is ultimately connected to the national constitution, as it relies on the integration of the substantive (rights stipulated by the constitution) and procedural (legislative and regulatory) basis for its implementation. Consequently, the effectiveness of international protection is dependent on the extent to which national laws and procedures harmonise with the guarantees enshrined in the 2005 Constitution of the Republic of Iraq and the state's capacity to translate international obligations into domestic effects that protect and prevent rights violations.

Results

1.This study showed that international court of human rights is based on two principles: the independence of judiciary and equality before the law, which is enshrined in the Constitution of the Republic of Iraq for the year 2005, Article 19 and Article 14. So, international judicial protection is not achievable without the independence of the judiciary and the non-discrimination principle.

2.The study proved that the jurisdiction of international courts in the field of human rights is associated with the fundamental rights that affect the legal and material status of man, mainly the right to life, security and freedom, and others with an international nature, such as political asylum, as the Constitution of the Republic of Iraq of 2005, Article 15 and Article 21. This means that international judiciary intervenes primarily when they are violated and internal means are not enough.

3.The study demonstrated that the nature of international judicial protection is broad, as it extends to personal and public rights, and it not only protects against direct aggression, but also preserves equal opportunities and rights relating to housing, nationality and privacy, as indicated in the Constitution of the Republic of Iraq of 2005, Article 16 and Article 17. As a result, international protection is of a preventive and remedial nature.

4.The study showed that the role of international courts is particularly prominent with regard to serious offences against human dignity, such as forced labour, human trafficking and trafficking of women and children, and in protecting the right of personal liberty, freedom of movement, travel and return to one's own country, in accordance with the Constitution of the Republic of Iraq for the year 2005, Article 37, Paragraph 3, and Article 44. Thus, international justice helps to combat impunity and enhance protection standards.

5.The study confirmed that international provisions have a significant role in protecting civil and political rights by maintaining the bond of nationality and protecting participation in public affairs and political rights, as found in the Constitution of the Republic of Iraq of 2005, Article 18 and Article 20. Therefore, international judicial protection does not only apply to the individual in his private life, but also in his civil and political life, in the national sphere.

6.The study showed that the effectiveness of the judgments of international courts is limited if not supported by domestic legislation and feasible avenues for implementation, as indicated in the provisions of the Law on the Care of Persons with Disabilities and Special Needs No. 38 of 2013, Article 15, Paragraph 4, Clause B, and the Personal Status Law No. 188 of

1959 as amended, Article 7. International rulings do not fulfil their role if they are not reflected in national texts or in the application of these texts in a way that turns their requirements into a reality.

7.The study demonstrated that the objective basis of the binding nature of the international ruling internally is linked to the link between the international rulings and pre-established constitutional rights, primarily equality, the right to life, security and freedom, in accordance with the Constitution of the Republic of Iraq of 2005, Article 14 and Article 15. In this sense, the domestic application of the international ruling is a continuation of protection provided by the Constitution, in contrast to the imposition of a foreign obligation.

8.The study found a major obstacle in the implementation of international rulings is the insufficient legislation, or the continued curtailing of rights by administrative procedures in a way that violates the constitutional rights, as understood from the Constitution of the Republic of Iraq of 2005, Article 21 and Article 44. As such, the activation of these rulings can be achieved by bringing the laws and procedures in line with the constitutional rights, so as to ensure effective protection.

Recommendations

1.Completing the national legislative framework in matters directly related to human rights, the regulation of which has been left to the law by the Constitution, specifically in the case of the right of political asylum, in accordance with the Constitution of the Republic of Iraq of 2005, Article 21. This regulation should contain procedural safeguards against the exercise of discretion, the right of appeal and the suspension of the right on the grounds of the absence of regulation.

2.It is recommended to review all the texts related to human rights with the aim to ensure compliance of these texts with the principle of equality and non-discrimination, and the right to life, security, and freedom, as per the Constitution of the Republic of Iraq of 2005, Article 14 and Article 15. This should aim to remove any inconsistencies and gaps that hinder the effective implementation of international provisions in the national system.

3.It is critical to bolster the national role of the judiciary in adopting international rulings and its interpretation of the national texts in line with the protective purpose of the constitutional rights. This means strengthening a judicial consensus that makes the independence of the judiciary, enshrined in Article 19 of the 2005 Constitution of the Republic of Iraq, the basis for a systematic legal approach to international rulings, devoid of any extra-legal elements.

4.It is suggested that stronger administrative and judicial measures be implemented to safeguard freedom of movement, travel, residence and return to the country of origin, as per Article 44 of the 2005 Constitution of the Republic of Iraq, by ensuring that any restrictions on these rights are scrupulously and expeditiously reviewed. The effective translation of international provisions means protection should not be subject to prolonged or unregulated administrative processes.

5.There is a need to implement positive legislative commitments for the vulnerable groups, especially those with disabilities, by implementing Law No. 38 of 2013, Article 15, Paragraph 4, Clause B, on the care of persons with disabilities and special needs, in a way that ensures real (not only formal) employment opportunities. This would connect international protection and the demands of social justice and practical equality.

6.It is recommended to develop a legal policy to adopt international provisions in conjunction with our constitutional guarantees for legislative, judicial and administrative action, rather than merely nominal acceptance of international rulings. Domestic implementation requires the development of a national mechanism that can ensure the stable, practical impact of international provisions in order to secure rights and prevent their violations.

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