Perspectives on International Instruments

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Types of International Instruments

Distinctions between Instruments

Soft Law

❧ Influences the normative development of Public International Law (Progressive Approach)

❧ Influences formation of International Custom

❧ Guides the Implementation of Concrete Measures

Binding Instruments

❧ Establishes International Obligations

❧ All Parties have an interest in securing compliance

❧ Facilitates Channels for Cooperation

❧ Requires Internal Measures for its Implementation

Examples of Soft Law relating to Principle 10

- **International Conference**: Rio Declaration on Environment and Development

- **International Institution**: Bali Guidelines

- **Committee of Independent Experts**: Human Rights General Comments

- **International Non-Governmental Organization**: Principles on Sustainable Development of the International Law Association

Examples of Binding Instruments regarding P10

- Multilateral Environmental Agreements

    - Stockholm Convention on Persistent Organic Pollutants

    - UN Framework Convention on Climate Change

    - Liability Protocol to the Basel Convention on Transboundary Movements of Hazardous Wastes

- Human Rights Treaties

- Aarhus Convention

Implementation and Compliance Mechanisms in Binding Instruments

Terminology

❧ Implementation

Application of the obligations in a treaty

Implementation mechanisms strengthen the capacity of the Parties to apply the norms

❧ Compliance

Conformity between the content of the obligation and the conduct of the State

Compliance mechanisms examine State conduct

Implementation Mechanisms

- Conference of the Parties

- Specialized Secretariat

- Working Groups

- Information Clearinghouse

- Financial Mechanism

Compliance Mechanisms

- Supervisory Mechanisms

- Dispute Resolution Mechanisms

- Quasi-Jurisdictional Mechanisms

- Facilitative Mechanisms

Supervisory Mechanisms

- **Periodic Reports**

  - Concluding Observations of the Committee on the Rights of the Child

- **Monitoring**

  - Safeguards of the International Atomic Energy Agency

- **Evaluations**

  - Universal Periodic Review of the UN Human Rights Council

  - Environmental Performance Review of the OECD

- **Investigation**

  - UNESCO World Heritage Convention

Dispute Resolution Mechanisms

- Characteristics

  - International Dispute

  - Determines International Responsibility

  - Sanctions or Fines

- Examples

  - Free Trade Agreements

Quasi-Jurisdictional Mechanisms

- Characteristics

    - Examines situations of non-compliance

    - May adopt quasi-coercive measures

- Examples

    - Montreal Protocol (1987)

    - Enforcement Branch of the Kyoto Protocol (1997)

Facilitative Mechanisms

- Characteristics

    - Cooperative and non-confrontational approach

    - Identifies causes of non-compliance

    - Formulates recommendations

- Examples of Facilitative Committees

    - Multilateral Environmental Agreements

        - Facilitative Mechanism of the Kyoto Protocol (1997)

    - Aarhus Convention

Landscape of Instruments relating to Principle 10

Global Instruments

- Rio Declaration and Agenda 21

- Johannesburg Plan of Action

- Rio+20 The Future We Want

Regional Developments in Human Rights

- Jurisprudence of African Commission of Human and Peoples Rights

  - *Ogoni, Endorois*

- Jurisprudence of the Inter-American Human Rights System

  - *Claude Reyes, Awas Tingni, Saramaka*

- Jurisprudence of European Court of Human Rights

Regional Instruments

- Aarhus Convention and Kiev Protocol

- Summits of the Americas

- Inter-American Strategy for the promotion of public participation in decision-making regarding sustainable development

- Inter-American Democratic Charter

- Model Law on Access to Information

- Santiago Declaration CELAC

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