

# Evaluating The European Union's Stand on Human Rights

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**Abstract-** *European Union, an international institution that comprises 27 acceding countries and administering common economic, social and security policies that came into existence after the Treaty of Maastricht came into force in 1992. Previously, there were three different Communities in the E.C: the European Economic Community, the European Economic and Steel Community, and lastly, the European Atomic Energy Community. From the beginning, these institutions have established the enforcement of human rights within their jurisdiction. The 1997 Amsterdam Treaty additionally modified these sections and encouraged a better understanding of human rights' significance at the E.U. level. All member countries of the European Union are the Council members and bound by the European Convention on Human Rights. The internal policies and foreign policies of the European Union accords particular importance to the principles like human rights, global peace, and Democracy. The contribution of the E.U. in universalizing human rights in international fora cannot be denied. This paper aims at examining the position of the European Union on Human Rights.*

**Indexed Terms-** *European Union, Human Rights, ECHR, Democracy, Treaty of Lisbon, Maastricht Treaty*

## I. INTRODUCTION

"When the E.U. speaks, people listen. When the U.N. speaks on human rights issues, people also listen, and when we are in tune, we can be an important force for change."<sup>1</sup>

*Navanethem "Navi" Pillay (2008-14)*

-U.N.H.C.H.R.

Human Rights, as well as the legal order, continues to be a foundation stone of the European Union, performing meaningful work in the E.U.'s regional mandate and the admission of new countries as a party to it. Approved publications support this position universally. The legalistic method of the European

Union has drawn a distinction with the prognosis of democratic and military strength by China, Russia, and the United States. The European Union is acknowledged as developing ever more significant global clout<sup>2</sup> as the leading Union in terms of trading ever existed across the globe, the leading contributor towards humanitarian relief, along with safeguarding the environment.

However, the hopes of the residents of the E.U., as well as maybe even of the world. Subsequently a while, Philip Alston's original compilation on both domestic as well as international policies of the E.U. regarding the promotion and safeguard of human rights legislation,<sup>3</sup> the issue can be debated that a regulating mechanism of human rights is currently in place;<sup>4</sup> However, the gulf between the European Union's rights rhetoric and reality has not yet been bridged.<sup>5</sup>

In 2011, the General Assembly of the United Nations had adopted a resolution stating the association of the E.U. in the functioning of the U.N.,<sup>6</sup> making it a more noticeable actor aimed at promoting and protecting human rights in the universal fora. A particular illustration is the E.U.'s association in the 'Kimberly Process' since 2003; it brings together governments, civic society, as well as enterprises in reducing the flow of conflict diamonds - 'rough diamonds used to finance wars against governments' - around the world.<sup>7</sup> It is a field where global trading business and human rights coincide. An illustration of the beginning of unintended importance for human rights is the so-called 'the Quartet on the Middle East' (also called the Diplomatic Quartet). The European Union takes part collectively with the United States, Russia, as well as the United Nations. As mentioned above, the United Nations currently have confidence in an important position of the E.U. The then U.N. High Commissioner for Human Rights, Navi Pillay, states that "The EU is, of course, already an important partner for us, both as a donor and as a strong moral

voice on many human rights problems facing people all over the world."<sup>8</sup>

One of the important issues discussed in this chapter is whether the European Union is an important organization for promoting and protecting human rights. Unquestionably, accessible writings along with numerous conferences and seminars concentrating on "the European Union and Human Rights" are increasing rapidly. However, from the legal perspective, Philip Alston's book, i.e., *The E.U. and Human Rights* which was published in 1999, is still prominent in the particular field. Over the past decade, human rights have also been included in legal observations on E.U. external relations.<sup>9</sup> However, the European Union receives simply narrow handling in a number of debates of the local framework for the promotion and safeguarding the human rights. This signifies that the European Union is yet to be acknowledged in an identical position alongside the provincial systems of the European Council, the Inter-American system as well as the Organization of the African Union. Kevin Boyle, an American author and a Human Rights Activist, submitted in 2004 that, "The expanding role of the E.U. in the protection of human rights is only considered briefly below, because, from the perspective of the practitioner, it offers little opportunity for use outside of national proceedings."<sup>10</sup> Furthermore, David P. Forsythe in 2007 wrote, "Many E.U. statements on human rights abroad are just that: statements devoid of further action."<sup>11</sup> All these points imply that the European Union is not an international actor in relation to defending and promoting human rights.

The statement as mentioned above of Navanethem Pillay suggests the opposite, and at a minimum, calls for a more significant comprehensive debate regarding the position of the European Union in safeguarding the international human rights law. Universal attention regarding the European Union's human rights legislation will be additionally strengthened because of a majority of improvements. Initially, the attitude regarding the safeguarding of human rights by the European Union develops a contemporary universal consideration after the outcome of the *Kadi vs. Council and Commission* by the E.C.J. in September 2008, in which the European Court of Justice quashed an E.C. measure giving effect to a U.N.S.C. resolution

for being unlawful.<sup>12</sup> This case was broadly debated as it developed a rift among the E.U. and the U.N. Secondly, on December 01, 2009, the Treaty of Lisbon, which amends two treaties that develop the constitutional basis of the European Union, came into existence. Besides, creating a new organization, i.e., 'European External Action Service' (E.E.A.S.), with its primary objective of promoting and protecting Democracy along with Human Rights; however, it too improved the European Union Charter of Fundamental Rights to mandatory E.U. legislation along with unfolding the way to the European Union's entree to the ECHR.

This article separately addresses the four critical parts, following the introduction, which delivers a general idea for those who are less accustomed to 'European Union human rights legislation as well as its external dimension. Part I of this chapter observes the universal stance of human rights inside the legitimate and organizational system of the E.U., involving the association with the European Convention of Human Rights. Part II deals with the capability of the European Union's support for human rights in universal institutions. Part III explores the illustrations concerning the impact of human rights legislation of the E.U. in its foreign policy, particularly in Asia and the United States. Moreover, the last part evaluates whether human rights evolved within the European Union sets examples for other authorities to observe.

## II. EVALUATING THE EUROPEAN UNION'S PLACE ON HUMAN RIGHTS

The European Union (E.U.) has developed into a significant global player as proven through the increment in its member countries (currently 27 members after B.R.E.X.I.T.), the affairs it has nurtured with its neighboring states along with the wide variety of agreements as well as the treaties it has ratified with the nations as well as the different global institutions. No efforts are going to be presented at this point to claim that the European Union obtained a particular figure of a global influencer. At the same time, the importance of the E.U.'s influence as a global player must be given serious consideration as the E.U. is increasingly projecting itself as an extraordinarily successful regional arrangement that states wish to join, and as a model for other regional integration

arrangements to follow.<sup>13</sup> Consequently, the impact, as well as the influence of the E.U. within the universal mechanism for the advancement along with safeguarding of human rights, is a significant concern as the institution is previously established as a standardizing authority where human rights maintain an important place in the international fora.<sup>14</sup>

The involvement, as mentioned earlier, put forward the query as to whether or not the European Union's standard for advancement along with the safeguarding of rights is a required one. During the European Union's progress, it becomes evident that the economic integration project incorporation has importance above all other opposing standards, comprising Democracy.<sup>15</sup> Recently the European Union has launched new projects to enhance economic integration between Western Balkans and Moldova.<sup>16</sup> Sequentially, this affects the stance of the European Union on governance, as concepts along with Democracy as well as human rights are shaped as well as transformed in a way that goes through the values of the economic integration projects with its foundation in free-market values. The idea here is to signify how human rights come to term within the framework of the economic integration project, which is the cornerstone of the E.U. The European Union's stance concerning human rights differs from conclusions that it is a highly successful model that should be replicated globally<sup>17</sup> to consider that human rights are merely involved in the dominance of the economic integration projects.

Nevertheless, the importance of the economic integration project compels us to observe the demands of exceptionalism with certain issues as well as to inquire about the outcome of the European Union model is a form of governance which anticipated by everyone, and not only the economically feasible as well as privileged. United Nations mechanisms have made it evident that in the exiting method of globalization, the importance on free-market, trade-based activities could damage the fortification of human rights, particularly depending on the sidelined of society, along with a demanding necessity to make sure that there is an additional human right centered emphasis on the following activities. Even though the European Union holds essential guidelines concerning human rights, it is similarly evident that the

importance of free-market principles in the course of incorporation has been causing damage to human rights principles.

- *Human Rights along with the economic incorporation in the European Union's schemes*

Undoubtedly, safeguarding and defending human rights is the main component in the European Union's numerous projects. Currently, the European Union plans are complex. They have been fashioned in a specific way with compelling importance on the development of a lawful administration regarding specific characteristics of economic integration. After all, such parts have developed to account for a constantly developing list of economic activities; however, the basics remain consistent. The E.E.C. Treaty or the Treaty of Rome of 1957 established the European Economic Community that developed the two treaties, i.e., the European Economic Community (E.E.C.) and the Treaty establishing the European Atomic Energy Community (E.A.E.C. or Euratom),<sup>18</sup> substantially altered by the Single European Act of 1986 and the Maastricht Treaty, which was concluded in 1992, attempted to develop a single market which possesses four unique characteristics. They are also called the four fundamental freedoms and encompass the free movement of goods, services, capital, and labor.<sup>19</sup> The fundamentals of the European Union were inspired by the conviction that "a successful economic model, delivered through an economic constitution governed by the rule of law, would bring higher levels of social benefits in its wake."<sup>20</sup> Since the very beginning, this plan was created on the idea of an elite-led approach that did not attempt to engage with the wider society involved.<sup>21</sup> It has significantly affected the European Union's role on leadership as of discriminatory nature concerning E.U. projects specifically. The centrality of the economic integration project, with its foundations in free-market thinking, both contribute to attenuated and conditional understandings being given to the promotion and protection of human rights. This has developed a mistrust on the part of the European Union's perception of human rights as it struggles to represent itself as a standardizing chief in the domain of human rights. Yet, the legitimate commitment of the treaties involves the obligation to human rights should be moderated by market conditions which can be proved advantageous to the financial success of the

integration project. It has been discussed that because of the importance of the economic integration project along with the legitimate commitments that surround it, the European Union's attitude towards democracy and human rights perhaps categorized as understated, including unsatisfactory consideration given to the social aspects of Democracy through reference to the actual material conditions individuals and groups are experiencing.<sup>22</sup>

The advancement of the European Union through the E.C.J. is widely recognized. Flaminio Costa v E.N.E.L. (1964) Case 6/64 was a historical judgement of the E.C.J. setting forth the superiority of law of the E.U. (then Community law) beyond the legislations of its member countries. According to the Judgement, "*It follows from all these observations that the law stemming from the treaty, an independent source of law, could not, because of its special and original nature, be overridden by domestic legal provisions, however, framed, without being deprived of its character as community law and without the legal basis of the community itself being called into question.*"<sup>23</sup>

This is a common concern of the institution's composition as well as the objective; however, with an ever-growing project related to the economic integration in position, the perception of dominance often raised a doubt regarding the realization of the advancement and safeguarding the human rights during the integration project. Although early treaties did not talk about human rights and initial efforts to increase the voice regarding the concerns related to the integration project's effect on human rights were declined by the European Court. For instance, in Stork vs. High Authority case in 1959, it has been identified that the E.C.J. had been unable to consider a complaint that argues that "it infringed principles of German constitutional law."<sup>24</sup> On the other hand, the European Court of Justice was concerned with the diplomatic implications of integration as well as chose to look into the issues itself in 1969 when it came up with a legal principled which specified that the commitments of the integration project could not prejudice the fundamental human rights enshrined in the General principles of community law and protected by the Court.<sup>25</sup> Because of the importance given to the rule of law attributes of integration, the European Court of

Justice needed to examine a basis for this stance on human rights, and in its common legislation emerged with the mutual legitimate grounds of the countries party to it along with the European Convention on Human Rights (ECHR). Nevertheless, the sovereignty of the laws of the E.U. continued to be the primary command for lawful commitments.

The E.C.J. struggled to come up with a consistent and coherent position on human rights as it also had to ensure that the legal obligations of the Treaties were upheld.<sup>26</sup> This is, however, not a weakness of the European Court of Justice as it is mandatory to retort the lawful issues placed before it according to the already existing mechanisms. Due to the nonexistence of any specific lawful frameworks on human rights, demands to principles or values possibly be considered once the principal legitimate commitments of the treaties were dealt with. The Court has explained that *the fundamental rights recognized by the Court are not absolute but must be considered in relation to their social function. Consequently, restrictions may be imposed on exercising those rights in the context of a formal organization of a market.*<sup>27</sup> The European Court of Justice has frequently acknowledged that fundamental rights are an important section of the European Union plan but then again:

*"The fundamental rights recognized by the Court are not absolute but must be considered in relation to their social function. Consequently, restrictions may be imposed on the exercise of those rights, in particular in the context of a common organization of a market, provided that those restrictions correspond to objectives of general interest pursued by the Community and do not constitute, with regard to the aim pursued, a disproportionate and intolerable interference, impairing the very substance of those rights."*<sup>28</sup>

The Treaty of Maastricht or the Treaty of the European Union stipulates that, "The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on November 04, 1950, and as they result from the constitutional traditions common to the Member States, as general principles of Community law."<sup>29</sup> Later, the Treaty of Amsterdam, signed by the Member States on October

2, 1997, and came into force on May 1, 1999, helped in strengthening the European Union's obligation to human rights and openly stated that "The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States."<sup>30</sup> Although these proclamations are merely explanations that replicated what the European Court had previously recognized as well as it did not establish any firm lawful commitments, as economic integration continued to be the critical purpose along with the semantics of economics dominating continuously. While the integration project increased its range, the European Court of Justice is also concerned with human rights issues. Nevertheless, the disputing opinions emerged concerning human rights in E.U.'s mechanism. On one side, it was claimed that safeguarding human rights was done to promote the integration project, as well as human rights, shall not be regarded as standards in themselves. On the other side, there was an opinion that the E.C.J. makes evident that human rights should be an essential segment of the European Union. They also deserve to be protected as an autonomous value. It is conceivable to draw proofs for either stance from the European Court of Justice's wide-ranging legislation, as well as there have been essential progresses in advancement and fortification of human rights in particular fields. Although, in spite of these advancements, human rights within the framework of the Union continue to be subordinate to the treaty commitments developing the Economic Integration Projects.

In Viking Line and Laval un Partneri Ltd cases, the European Court of Justice was confronted with a claim relating to the right to take collective action (Article 43 of the European Community) was functioning in contradiction with the basic freedoms mentioned in the treaties. However, the C.J.E.U. tried to establish the human rights issues as a fundamental right that develops an essential section of the fundamental guidelines of Community law.<sup>31</sup> Although, C.J.E.U. raised the human rights section to a matter of general principles, it began to clarify that the "exercise must be reconciled with the requirements relating to rights protected under the Treaty and following the principle of proportionality."<sup>32</sup> The European Court would have to begin with the treaty-based rights to render facilities

to settle the presence of contradictory rights and liberties, and then enforce the human right mostly to the point that it would never unreasonably clash with the rights and freedoms enshrined in the treaties. Thinking of this kind downgrades human rights to economic forces and the opinions of the C.J.E.U. in such a situation comes too close to developing an order of fundamental freedoms in the treaties at the expense of human rights commitments.<sup>33</sup> The European Court specifically referenced rights to collective action in numerous different international treaties in such cases. However, it does not seem to have taken into consideration as well as committed with these instruments while considering the element of the right and how it may be restricted because it used treaty-based freedoms as a point of comparison for inquiring how relevant it would have been to make it possible for the exercise of these rights.

The verdicts related to the Vikings as well as the Laval's might be rejected as less fundamental for they consist of unclear social and economic rights that are nowhere near the globally acknowledged and one that has the ability to clash with a variety of other socio-economic and political purposes. Although, the Court's views in the following cases follow a parallel path of analyzing in cases concerning civil and political rights. In the case of Schmidberger the exercise of civil and political rights of assembly and protest closed a major transport route for thirty hours.<sup>34</sup> It was claimed that permitting the practice of these rights was conflicting with the fundamental right of free movement of goods protected under the Treaties as the country, i.e., Austria is committed to guaranteeing the efficient usage of these rights. The Court states that "It follows that, in a situation such as that at issue in the main proceedings, where the competent national authorities are faced with restrictions on the effective exercise of a fundamental freedom enshrined in the Treaty, such as the free movement of goods, which result from actions taken by individuals they are required to take adequate steps to ensure that freedom in the Member State concerned even if, as in the main proceedings, those goods merely pass through Austria en route for Italy or Germany."<sup>35</sup> It is worth noting that the C.J.E.U.'s argument started with the economic rights enshrined in the treaties, as well as acknowledged that they might be restricted; however, it also particularized that the

human rights which were exercised might also be confined, and the Court also continued to evaluate how the practice of human right have affected the freedom of movement. The E.C.J. have decided that meanwhile, the effect on the freedom of movement was not permanent, nominal and did not make an attempt to damage the core of the right of the freedom of movement; therefore, the limitation on free movement by the practice of human rights was acceptable. We can unquestionably say that the decision of Schmidberger established an attitude of the European Court of Justice that is 'sensitive to human rights,<sup>36</sup> although the wide-ranging discussion in the ruling of the significance of human rights does not remove the fundamental interpretation of the Court where the rights enshrined in the treaties are the founding part along with the practice of human rights must be accepted into the general purposes of the financial incorporation plans.

Several human rights are subject to certain restrictions, so the European Court of Justice acknowledges that this fact is not wholly worrying. The challenge arises when the ideological view upon which the C.J.E.U. grounds its argument whereby market considerations take prominence. The influence of open market thinking on the advancing as well as the safeguarding of human rights has been a central focus to numerous research as well as the dangers it creates to human rights seemed undoubtedly placed. Markets individually react to demands, along with the active safeguards of human rights for all in society, to answer the requirements. Consequently, in the lawful proceeding of the C.J.E.U., it is the requirement of the market that takes prominence. The European Union is awfully familiar with the anxieties which subsist as well as tried to promote a social aspect to the plans of the European Union. The social aspect is diverse, yet it is not founded on standardizing the importance of human rights although as a way of guaranteeing the continuing assistance for the plan of the economic integration of the E.U., leading to 'permanent and inherent tensions' among the economic objectives along with the requirements as well as the needs which are an essential section of the social features of the Democracy.<sup>37</sup> Francis G. Jacobs, a British Jurist, served as an Advocate General at the European Court of Justice, has mentioned in his paper, *The State of International Economic Law: Re-Thinking*

Sovereignty in Europe that, "the European model, as it might be called, is a middle of the road system which balances the free market against other values. It is a balanced compromise, accommodating both a market economy and a developed welfare state."<sup>38</sup> It is hard to say that any suitable equilibrium has been attained. The market rule still continues the importance of human rights. Article 28 U.D.H.R. states that "Everyone is entitled to a social and international order in which the rights and freedoms outlined in this Declaration can be fully realized."<sup>39</sup> The stress of the European Union on the supremacy of free-market thinking carries this obligation into the subject alternatively in order to practice additional free-market-oriented program is a diplomatic choice, as is the development of strategies where the actual human rights protection is an essential goal.

The Lisbon Treaty, which came into existence on December 01, 2009, has promoted several vital developments in safeguarding human rights in the European Union, as the Charter of the E.U., now enjoy equal legal standing as the Treaties under Article 6(1) of the revised Treaty on European Union (TEU). The addition of the Charter equivalent to the major treaties gave human rights a particular legitimate place in the E.U.'s framework. Although the European Charter is not the comprehensible text regarding the protection of human rights, it is somewhat an unusual compilation of rights establishing the economy's effect in cooperation with the diplomatic proposals comprised within the European Union. For instance, the right to liberty and security of person, commonplace personal security rights, are included alongside the freedom to conduct business, something that is not per se a human right, but is reflective of the political compromises that had to be made in putting the Charter together.<sup>40</sup> As the Charter is a negotiation document, the connection linking economic integration and the human rights continue to be unsettled. The EU Charter has carried numerous considerations regarding economic and social rights as a legitimate right which is a significant enhancement in dealing the effect of free market deliberations. However numerous social rights incorporated in the European Union Charter have several limitation provisions that will result in the exercise of the rights contracting to the economic integration project like the Viking and Laval cases.<sup>41</sup> The EU Charter might in

fact have an ineffectual outcome in that the European Union framework for the advancing and safeguarding the human rights will develop progressively, following better relegation of universal as well as other European human rights mechanisms. The procedure of the Charter uncovered several conflicts which were prevailing once arguments are made regarding subjugating the E.U. framework to global community for safeguarding the human rights.<sup>42</sup> Even though the Charter of the E.U. ensures the recognition of the significance of universal frameworks it is questionable that this acknowledgement will be given due consideration on the inside from the different organizations.

### III. EUROPEAN UNION'S POSITION ON HUMAN RIGHTS

The European Commission has claimed that the European Union model of regional cooperation and integration has been tremendously effective and consider it as the model whereby all other identical developments should be considered.<sup>43</sup> To a great extent the European Union model is an effective illustration of national amalgamation which leads a peaceful environment between the member countries, it has also accomplished fundamentals of financial success and has also improved the quality of life for the citizens in the E.U. It is evident that the European Union portrays itself as a progressive model of provincial unification from which a lot of can be studied – together from the perspective of achievements (how to make it happen) as well as failures (how not to make it happen). Frequently, the European Union represents itself as an advocate of international law.<sup>44</sup> Although, it is advancing in a way in which its own lawful framework is being considered as extraordinary, which leads to the sidelining of international law's viewpoints.<sup>45</sup>

The lawful viewpoint of the discussion of the C.J.E.U. in the case of *Kadi and Al Barakaat v Council and Commission*<sup>46</sup> shows an inclination concerning legitimate exception where the E.C.J. has embraced a powerful two-tier perception considering the effect and inspiration of external standards and in its place depend exclusively on regional analogues for deciding whether interfering with human rights was appropriate. The *Kadi* case concerned with those

people who were not the citizens of the European Union and had been named in the counterterrorism files by the United Nations Security Council causing properties and other assets being frozen. These files of the U.N.S.C. were included into the European Union by applying rules and protocols though the act was conveyed to the European Court regarding the properties they have in the European Union. The applicants have claimed that the listing procedure as well as its outcomes were contradictory to their rights to a fair hearing and right to property as enshrined in the various charters and documents. The case included the consideration of the authorization of the U.N. Security Council, the safeguarding of human rights regarding any actions undertaken in this context, as well as how commitments and considerations related to the international law incorporated into the laws of the European Union. The C.J.E.U.'s findings in *Kadi's* case clarified that the framework of the European Union legal agreements was sovereign and thus its interpretation could be solely created on this framework. In order of manifestations, the Court did respect the significance of the International Law, if so, action authorized by the United Nations' Security Council, yet mutually it made clear that consideration of the fairness of the acts by the organizations of the European Unions or Member countries may be judged by the E.U.'s rule of law. While the result of the verdict given by the European Court has been proclaimed as a conquest of human rights analytic of the regulating authority of the European Union, observers have also clarified that the perception developed by the European Court is similar to the interpretation of the U.S. Supreme Court's opinion of the U.S. constitution, which the Court has taken as a greater prescriptive framework to the elimination of all others. De Búrca in his article clarifies that the attitude of the Court of Justice in *Kadi* case "sits uncomfortably with the traditional self-presentation of the E.U. as a virtuous international actor in contradistinction to the exceptionalism of the United States."<sup>47</sup> *Kadi* might be clarified as a proof of the European Union's advancement as well as safeguarding the human rights across the globe, as it validated the capacity of one universal institution to examine the activities of another. Although, Weiler in the editorial column of the European Journal has commented that in following this contention the European Court of Justice has followed the United States' Supreme Court's attitude

in the *Medellin vs. Texas* which is still considered as a landmark decision<sup>48</sup> yet was also faced criticism for the exclusiveness that the Court showed in its disrespect for universal legislation. The trouble in Kadi arises in what way the European Court of Justice seems to hold the importance of universal human rights legislations, yet within the lens of the E.U.'s rule of law where the economic integration project is dominant.

In her judgements of the Kadi vs. Council and Commission Decision, *De Burca* elucidates:

"The fact that the E.C.J. chose the pluralist language and the reasoning which it did has sent out a clear message to other players in the international system about the autonomy of the European legal order, and the priority which it gives to its internally determined values."<sup>49</sup>

Certainly, it is important to inquire why this is an issue? Various point of views has been carried out that the improvement of the protection of rights within the limits of the European Union has not been regarding the search of free market standards in a manner comparable to the neo-liberal perspective,<sup>50</sup> that is identical to the growths and advancements in the United States. Instead, the illustration of the European Union has been regarded as an effective operational integration project that did not need to refer to human rights in the introductory treaties as the mechanism was totally founded in the conviction 'that mutually beneficial economic liberalization would promote, rather than endanger, national and international human rights guarantees.'<sup>51</sup> At first it is a highly attractive account<sup>52</sup>, it continues to be very disturbing, for it results in a redesigning of the outlines of universal human rights legislation in such a way that positions the understandings of human rights according to the neo-liberal views.<sup>53</sup> Article 3(5) of the Treaty of the European Union states that the organization will participate in the observance and development of international law. If the European Union's involvement is to position economic integration over the human rights, then maybe this is not the example that should be pursued by others and not exactly conform to prevalent movements in universal human rights legislation.

The European Union's shift towards exceptionalism has significant repercussions for its status as a

universal actor in human rights. As the participation of the countries in the European Union is increasing, nations will enter this claimed exceptional system which will possibly detach the effect and significance of other human rights mechanisms, both national and international.

#### IV. E.U.'S SCOPE AND INFLUENCE

The scope of the membership of the European Union is important for it includes a substantial number of countries who are in turn guaranteed by the lawful commitments of the membership. Presently, there are 27 countries party to the European Union, which are under a legitimate commitment to obey the Treaties and all rules and laws ratified according to the Treaties with the subsequent effect on human rights as mentioned earlier. There are 4 countries (Iceland, Liechtenstein, Norway, and Switzerland) that have relations according to the treaties with E.U. through the European Free Trade Area (EFTA) and the European Economic Area (EEA). These agreements mostly concentrate on the issues related to free trade among the European Union and the member countries, with the E.U.'s *acquis* at the core of the Treaties.<sup>54</sup> As of mid-2020, there are 5 additional countries at present *negotiating their E.U. membership* (Albania, North Macedonia, Montenegro, Serbia, Turkey) and according to the European Union 2 more 'potential candidates' who were promised the prospect of joining when they are ready (Bosnia and Herzegovina and Kosovo).<sup>55</sup> However, in March 2015, Iceland demanded not to be considered as an applicant state.<sup>56</sup> All of these member countries require to show accordance with the present European Union framework, both prescriptive and legitimate. The Copenhagen Criteria, in 1993, for membership to the European Union were implemented by the European Council which included both the normative and lawful features of the European Union. There exist claims that membership to the European Union has constantly combined the normative aspects of the criteria,<sup>57</sup> although mutually it is evident that the diplomatic concerns of membership and economic contemplation are minimum, if not more significant.<sup>58</sup> Although, there was a stress on the legal framework of Democracy and human rights, this has been inclined towards the market-based characteristics of the *acquis*.<sup>59</sup>

The European Union developed the European Neighborhood policy in 2004 for those countries who are adjacent to the European Union yet, for several reasons, are not considered as possible members. The E.N.P. developed on a shared commitment with member states of the East and South, and on a common interest to collaborate on key priority areas.<sup>60</sup> The fundamental principle of the European Neighborhood Policy is to promote a joint moral values and customs among the European Union and its neighbors through sharing of values and goals, directing to the Union's attitude towards governance being implemented by bordering states. The E.N.P. is portrayed as 'sharing the European Union's fundamental principles and aims' as well as taking "forward relations with neighboring countries based on shared political and economic values, and that the European Union remains determined to avoid new dividing lines in Europe and to promote stability and prosperity within and beyond the new borders of the European Union."<sup>61</sup> The principles articulated in the E.N.P. provide strengthened abstract obligations for democratization, supremacy of law, observance of human rights and social harmony; simultaneously, the modified E.N.P. develops three mutual priorities for assistance ideally capable to the present difficulties and adapted to the state's progress: (1) economic development for stabilization; (2) security and; (3) migration and mobility.<sup>62</sup> The European Neighborhood Policy is established on self-centeredness as its purpose is to guarantee the assistances of the European Union from the peace and stability of the bordering countries that will be accomplished by projecting the well-established E.U. model.<sup>63</sup>

Ahead of the close European neighborhood there exists a broad variety of treaties came into existence among the European Union as an institution or discussed within the aegis of the European Union and its Member Countries. These treaties have been adopted with countries, groups of nations as well as other universal institutions comprising a wide variety of subjects related to the cooperation. In numerous treaties as possible the European Union has been integrating what has become known as the 'general clause' on Democracy and human rights, a common wording of which reads as follows: "*Respect for the democratic principles and fundamental human rights established by (the Universal Declaration of Human*

*Rights)/(the Helsinki Final Act and Charter of Paris for a New Europe) inspires the domestic and external policies of the Community and of (the country or group of countries concerned) and constitutes an essential element of this agreement.*"<sup>64</sup> The report published in 2006 stated that this provision been introduced into more than 50 agreements and applies to more than 120 countries.<sup>65</sup> Certainly this provision is a valuable instrument for the European Union to have an effect on the performance as it may be exercised to suspend all kinds of ties according to the circumstances. Likewise, its use will depend upon the European Union's personal evaluation of the state of affairs which would admit for either normative or premeditated matters to determine its usage, as it is a diplomatic tool and not an authoritarian legitimate or normative framework. Moreover, it should be noted that this provision is not an international viewpoint of all the treaties of the European Union, and it is excluded in particular circumstances.

Along with the third world countries, the European Union is also operating for the advancement of assistance among itself and other national organizations. The European Union's dealing with other states differs yet there are few specific subjects including the growth of economic assistance into diplomatic as well as expansion issues, together with the advancement of domestic incorporation attempts where the European Union's attitude towards mutual aid is caught up as the appropriate framework.<sup>66</sup> The interregional framework which prevail do not at all times, includes responsibilities under the law, yet will frequently include mentioning of universal human rights standards.<sup>67</sup> In these interregional events it is evident that the European Union is projecting itself as an example to be admired, as well as its attitude towards good governance is being projected, as more importance is given on free trade, according to the framework of World Trade Organization, along with developing the incorporation agreements identical to the European Union's in the particular state.<sup>68</sup> On December 30, 2020 the European Union and China, concluded in principle the negotiations on the Comprehensive Agreement on Investment (C.A.I.)<sup>69</sup> ignoring the China's human rights record including its systematic repression of Uighurs and its crackdown on Hong Kong democracy.<sup>70</sup>

One thing is familiar to all these attempts, is the significance of the E.U.'s framework of regional integration that is presented as an example to be embraced, be it by newly admitted members, bordering countries etc.<sup>71</sup> In an attempt to shape global institutions thereby it is obvious that, as an international actor, the European Union 'have been driven by narrow self-interests rather than by any abstract commitment to the promotion of economic liberties<sup>72</sup>, and while E.U. shall not be excessively slammed for this stand, it is to remind that the institution is not 'an obstinately a righteous player'.<sup>73</sup> And this is an issue that has been acknowledged by E.U. itself. In a report published by the European Commission in 2004 labelled "A World Player" it clarified the stand of the European Union's action in relation to other countries across the globe:

"The E.U. did not set out to become a world power. Born in the aftermath of World War II, its first concern was bringing together the nations and people of Europe. But as the Union expanded and took on more responsibilities, it had to define its relationships with the rest of the world. Just as it has worked to remove trade barriers, develop poorer regions and promote peaceful cooperation within its frontiers, so the Union works with other countries and international organisations to bring everyone the benefits of open markets, economic growth and stability in an increasingly interdependent world. At the same time, the E.U. defends its legitimate economic and commercial interests in the international arena."<sup>74</sup>

#### CONCLUSION

The capability of the European Union to envision itself as an international player is important and its model of economic inclusion will be in the lead of advancements in the particular field. This article tries to suggest that we should examine the European Unions' framework since there is hardly anything in it that highlights the fact that it is advantageous. Former European Commission President Romano Prodi clarified that trying to project the E.U. framework to the international Community is not really about trying to defend self-interest or imperialism, and yet regarding the E.U. chosen to represent a distinctive cultural experience that could bring sustainable international growth to the global Community.<sup>75</sup> The

notion that what works in a small section of Europe would apply for the rest of the globe is unsurprising, as Koskenniemi has noted, because it represents the European inclination to universalize the regional.<sup>76</sup> It is necessary to be a greater authentic appraisal of the European Union's attitude to human rights and the acknowledgement that the paradigm take on board, while beneficial in numerous aspects, yet has shortcomings.

A recent research of the European Union's mutual reaction with the Western Balkans appears to mean that the Union's action in this field is driven by important concerns over any policy agenda or even obedience to the universal values or standards. Examining additional afield in the outlook of human rights in universal arrangements including the Cotonou Agreement, studies have indicated that this now 'reflects less a normative agenda than a trenchant pursuit of what are really neo-liberal goals and the extension of economic liberalization in the interests of the E.U.'<sup>77</sup> Such illustrations establish that while human rights are a significant section of the European Union's position as a universal actor, it does not certainly follow that the European Union presents an actually exceptional example which in some way prevents the difficulties of standards as laid down by other international actors. Beyond a shadow of doubt, the European Union did epitomize a paradigm of economic inclusion from where much can be understood over the continued process of world governments. Although, this cannot be the way stating that the European Union is the perfect example as well as can be copied internationally without asking a question. The Washington Consensus been subject to criticism for wounding human rights, and it will be challenging to acknowledge the substitute of that standard of international governance through some kind of 'Brussels Consensus', that had a different appearance yet substantially the identical faith in giving more importance to the open market above fundamental human rights fortification.

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