

Theorising the Direct Effect Doctrine of International Law in Human Rights Enforcement

Torque Mude

Abstract

This chapter theorises the direct effect of international law in human rights enforcement in the *Campbell* and *Von Abo* cases. Since international law has assumed a significant role in relation to securing the rights of individuals in domestic and international courts, it suffices to explore a theoretical framework that provides analytical insight into the competence of international law in this endeavour. For the purpose of this chapter, the triangulation of the realist and transnational legal process theories are explored to provide theoretical grounding upon which the competence of international law in human rights enforcement in the cases in question will be understood. The theories in question were propounded by scholars from across the sister disciplines international politics and international law. Even though they largely diverge in assumptions, both explain why states comply or do not comply with international law at both international and domestic levels. The realist theory focuses on political processes and factors in analysing compliance with international law while transnational legal process focuses on legal processes and factors in examining compliance. Hence, realism deals with how politics influence why states obey international law while transnational legal process is concerned with how international law influences why states obey.