

# International Human Rights Law

**Unit 1**

**Human Rights**

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# International Human Rights Law

- International human rights law has been developing extensively since the creation of the United Nations. The most fundamental point about human rights law is that it establishes a set of rules for all the people of all the states.
- Human rights is international in the sense of it being universal, applying to all the individual. However, international human rights law refers mainly to the obligations of states to individuals within their jurisdiction. When states fail to assure realization of human rights to the individuals within their jurisdiction international obligation arises. Thus, obligations to provide human rights individuals is mainly intra-national and in some cases international.
- Thus a state is not free to treat its nationals as it pleases despite the fact that it is sovereign. The greatest impact of human rights law has been to erode the absolute control which a state had in the classical period.

- The efforts for the creation of an international organization, in order to establish peace, were being made even when the World War II was in progress. Many declarations adopted by the conference laid down the importance of human rights. The declaration of the United Nations signed on January 1, 1942 at Washington was the first document which used the term human rights.
- Thus, human rights became a matter of International concern with the end of World War II and the founding of the United Nations. Since then international human rights law has been developing in an unprecedented way and has become a very substantive part of International law as a whole. Although there is no global government as such to protect human rights, it is being protected by the various bodies of the United Nations and the inter-governmental organizations.

# Promotion and Protection of Human Rights by the United Nations

- The prime responsibility for the promotion of human rights under the U.N Charter rests in the General Assembly, in the Economic and Social Council and its subsidiary body i.e. the council on human rights.
- The term protection of human rights which may mean implementation and enforcement action does not find place in the U.N Charter. When human rights violations assume massive dimensions, the General Assembly and other organs of the UN can initiate discussion and action. Among the United Nations agencies only the Security Council and the International Court of Justice can engage in enforcement action; only they have a competence to pass a binding resolution or issue a binding judgment. Enforcement is thus the authoritative application of human rights.
- The United Nations in the past has been able to promote and protect human rights by certain ways which are as follows:
  1. Human Rights Consciousness- the first and the most important role which the United Nations has played is that it has made the people and the states conscious about the human rights and fundamental freedoms.
  2. Codification of the law of human rights- The United Nations has codified the different rights and freedoms by making treaties for all sections of the people such as women, child, workers, refugees, etc.

# Council on Human Rights

- The Economic and Social Council (ECOSOC) , a principal organ of the United Nations was most directly concerned with the question of human rights. The Council under Article 68 of the U.N Charter was empowered to set up commissions for the promotion of human rights and such other commissions as may be required for the performance of its functions. The council may also meets annually in Geneva for six weeks beginning in March. The commission may also meet between annual sessions to deal with urgent human rights situations.
- The council as determined by its terms of reference was directed to prepare recommendations and reports on the following items:
  1. On international bill of rights
  2. International declarations and conventions on civil liberties, the status of women, freedom of information .
  3. The protection of minorities.
  4. The prevention of discrimination on grounds of race, language or religion

# Universal Declaration of Human Rights

- The idea for the protection for human rights and fundamental freedoms was conceived in the Atlantic Charter (1941) and in the Declaration of the United Nations (1942).
- The Universal Declaration of Human Rights was adopted in 1948 with an aim to enumerate human rights for all the people. The UDHR has inspired a rich body of legally binding international human rights treaties. It continues to be an inspiration to all whether in addressing injustices, in times of conflicts and in our efforts towards achieving universal enjoyment of human rights.
- The Preamble of the Universal Declaration proclaims the declaration as a common standard of achievement of all people and all nations.
- The Universal Declaration contains 30 Articles . It enumerate the basic principles of human rights in a most comprehensive manner. Out of 30 articles , while 21 articles enumerated civil and political rights, 6 articles cover economic and social rights.
- It is to be noted that the Universal Declaration does not permit a state to derogate from their obligations in public emergency which threatens the life of the nation. Thus even in such cases the rights cannot be suspended.

# Legal Effect of the Declaration

- The Universal Declaration set for the International community a common standard of achievement. It recognized the inherent dignity and the equal and inalienable rights of all people in all nations. It is the duty of the States regardless of their social, political and economic systems to promote and protect human rights.
- The Universal Declaration was not intended to be legally binding and therefore it did not impose any legal obligations on the States to give effect to its provisions. In other words from the legal point of view, the declaration was only recommendation and not strictly binding on the states.
- The declarations addresses right to all people and all nations whether they are members of the United Nations or not.
- The main object of the Declaration was to present the ideas of human rights and freedoms in order to inspire everybody to work for their progressive realization. The message conveyed is one of hope, equality, liberation and empowerment.

# International Humanitarian Law

- International humanitarian law is a branch of International Law which provides protection to human beings from the consequences of armed conflicts.
- Humanitarian Law deals with those matters which have an impact of armed conflicts on the life ,personal integrity and liberty of human beings. Thus humanitarian law may be referred to that body of law which defines those principles and rules which limit the use of violence in times of war. These rules are inspired by principles of humanity and they are meant to avoid human sufferings and brutality in armed conflicts. However, those rules of war which are based on humanitarian considerations or motivations are called humanitarian law.
- International Humanitarian Law has much in common with the law of human rights since both is concerned with the protection of the individuals nevertheless there are important differences between the two. First difference is that International humanitarian law is applied during the time of armed conflicts whereas the law of human rights is applied in peace time.



- The second difference is that the state which becomes a party to a human rights treaty assumes an obligation to treat all person within the jurisdiction in accordance with the provisions of the treaty .Humanitarian Law is primarily made up of treaties, agreements between states intended to have binding legal effect between the parties that have agreed to them and are binding only between States which are parties to those treaties.
- International humanitarian law applies to all armed conflicts, i.e. international armed conflicts as well as non-international armed conflicts. International conflicts may mean an armed clash between two or more states whereas non-international armed conflicts which take place in the territory of a state between its armed forces. e.g.. civil war are included in non-international armed conflicts.

# Case Study

- Malala Yousafzai a Pakistani School girl know for her activism for rights to education and for women especially in the Swat Valley, where the Taliban had at times banned girls from attending School. After this United Nations special envoy for Global Education Gordon Brown launched a UN petition which helped lead to the ratification of Pakistani first right to education bill.
- Over the years many form of discrimination have come to be recognized including racial, gender and sexual discrimination. Another type of discrimination is against LGBT individuals (Lesbian, Gay, bisexual, and transgender individuals).

- Human Rights violations in Sri Lanka. The conflict in Sri Lanka has been one of the greatest offenders in Human Rights Violations. In this case the Government of Sri Lanka and the separatist Liberation Tigers of Tamil Eelam (LTTE) are accused of violating Human Rights. LTTE were known as the most vicious and dangerous terrorist groups in Sri Lanka.

# CONCLUSION

- Presently there is a widespread acceptance of the importance of human rights in the international structure. However, one will not hesitate to admit that there is a confusion prevailing as to its precise nature and scope and the mode of International Law as to the protection of these rights. One valuable lesson that the history of human rights teaches us is that they are not static but are developed in response to new modes of political thought and changes in the international environment.

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Thank You.