

Study Session 5

Unit 5 Meaning and Scope of Human Rights

Study Session Outline

- i. Meaning of human rights
- ii. A brief Genesis of Human Rights Theory
- iii. Scope of Application of Human Rights: how does human rights help us?
- iv. Types of Human Rights
- v. The state and human rights

Study Session Duration

Each Study unit requires a 2 hours of formal study time.

INTRODUCTION

Dear learner, welcome to the first unit of the module. Under this unit, you will define the meaning of human rights. This unit also acquaints you with the common classifications of human rights, basically on the basis of generation or history of development. The unit also deals with how **human rights** help us in the daily lives of everyone and discusses the duty bear's responsibilities in the enforcement of human rights.

Enjoy attending this unit!

Learning outcome of study session one

Upon completion of this study unit, students are expected to

- Familiarize themselves with the meaning of **human rights**
 - Acquaint students with the classification and generations of **human rights**
 - Appreciate the scope of application of human rights
 - Explain the duty of states in the enforcement of **human rights**
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Unit-I Meaning and Scope of Human Rights

Introduction

Dear learners, you might have heard about what Human rights constitutes. Human rights is set of rules and principles or norms that regulate the treatment of individuals or group of individuals equally and by respecting their dignity, wellbeing in decent manner. The set of rules and norms are encapsulated at domestic, regional or international level which provide obligations on the duty bearer, primarily the state by providing accountability mechanisms for those who breach the norms and providing mechanisms of redress victims of **human rights** violations. Accordingly, many international and national laws and conventions were adopted at domestic and global level. We can mention for eg., the UDHR, the (ICCPR), The (ECOSOC), The (CRC), etc, can be mentioned as global **human rights** instruments. For example, The UDHR which is considered as a founding document for all **human rights** instruments, starts with the following words in its preamble “*...Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world...*” (UDHR, 10 December 1948). Implies that respect for **human rights** is the basis for peace, justice and freedom.

1.1 Meaning of human rights

Human rights are defined in general as inherent rights that all human beings are entitled regardless of any status. In a nut shell **Human rights** can be defined as inalienable, universal, indivisible, rights that all human beings are entitled of his/her humanity to without any distinction in color, religion, opinion, sex, ethnicity or any other status.

1.2. A brief Genesis of Human Rights Theory

The **Human rights** discourse might seem a modern concept, however, the ideas underpinning **human rights** were originated since ancient times. For example, religious dogmas and canons included codes of practice that can be interpreted as implying certain human rights if viewed in view of the modern conception of **human rights**. Several religious and communities in the world share the golden rule of "Do unto others as you would have them do unto you" This notion is shared by many religious principles. For example, the Hindu, Kurean, Christianity. Moreover, ancient philosophers and writers significantly contributed to the notion of modern human rights. The enlightenment era also broadened the human rights discourse based on secular moral universalism in which the modern human rights discourse stands.

During the era of enlightenment, several writers made several contributions to the philosophy of **human rights**. For example: John Locke in his treatises of civil Government, preceded to that "All Men were by nature equal, free and independent". (Christian Tomuschat,2008, pp12) Hobbes also added in his writings that "every one retains his natural freedoms even vis a vis the machinery of the state"(Christian Tomuschat,2008, pp12) Aristotle also discoursed the importance of virtue justice and rights pursuant to the political community.

The origins of equality of all individuals is founded in earlier traditions and many cultural documents; yet, the atrocities of World War II have carried the issue of **human rights** into the attention of the global community.

Modern set of rules and principles on human rights started to proliferate since the atrocities that the world experienced after the end of the second World war. For example, the UDHR was adopted in 1948, several international **human rights** instruments such as the ICCPR, and, the ICESCR and many other instruments can be mentioned which were adopted subsequent to the end of the second world war.

1.3. Scope of Application of Human Rights: how does human rights help us?

Dear learners, how do you explain the use of human rights in our daily activities?

All community of the world share common values that are embodied under the notion of human rights. Those values include, fairness, justice, equality, respect and dignity those values They help us as important means of protection for our lives and properties.

Dear learners can you discuss about the application of human rights in your daily lives

1.4 Classification of Human Rights

There are a fundamental and non-fundamental, they can also be classified as individual and collective. **Human rights** can also be classified as justiciable and non-justiciable. Human rights are also classified according to their historical development. Accordingly, human rights are classified in to three categories. Those are First generation rights, second generation rights and third generation rights. (Sandy Ghandhi, 2010)

First Generation Rights-

The first-generation rights consist of civil and political rights. The purpose of those rights is to provide protection for citizens against all forms of illegal/arbitrary actions of the state. Those rights include *right to life, the right to liberty and security, the right to privacy, the right to a fair trial, the right to equality and the right to dignity*. Dear learner, you can have a brief overview of the contents of the international Covenant on civil and political rights, the (ICCPR,1966) which consists of rights that may be categorized under the first-generation rights. (Demelash Shiferaw R., 2009)

Second Generation Rights

This category of rights includes rights that are fundamental for the modern living of individuals. Those basically are the socio-economic and cultural rights such as the right to education, right to health, cultural rights, employment **rights** , housing rights, and property **rights**. (Christian Tomuschat,2008, pp26-28)

Third Generation Rights

In terms of historical development, third generation rights are relatively recent compared to the other generation rights. Third generation right are also named as solidarity rights, because the attainment of those generation rights demands the cooperation of the international community. Under this category of rights, the right to peace, development rights and the right to a clean environment are included. ((Demelash Shiferaw R., 2009)

1.5 Human rights and the state

There is a general understanding that individuals and certain groups are entitled to human rights. On the other hand, the state is considered as the primary duty bear in the protection and promotion of human rights. (*Christian Tomuschat,2008, pp97*) Basically, the state is under duty to protect, provide, and refrain as far as human rights protection and promotion is concerned.

Dear learner, what does “*duty to protect*” mean?

The Duty to protect of states fall under the inherent mandate and obligations of states towards their citizens. The government/state is assumed to have all the machineries to protect citizens from an act or threat that can violate the **human rights** of citizens. For example, the set of rights by which states are supposed to protect against violations are those rights mainly mentioned as civil rights. Those include the right to life, security, liberty etc which are mainly enshrined under the ICCPR.

Similarly, the *duty to provide* is another duty of the government in the enforcement of human rights. The second-generation rights mentioned above mainly the socio-economic rights, such as the right to education, health is provided by the primary duty bearer. Hence, the government is expected to provide the socio-economic rights as far as the resource permits. Example respecting socio-economic rights such housing rights, health rights, education rights demands provision of resources, infrastructure and finances from the government side.

Dear learner what do you understand by the duty to refrain?

Governments have relatively more power and the power can be used to abuse the rights of individuals. Therefore, the human rights jurisprudence puts restrictions on governments not to abuse the human rights of their citizens. This is what we call the duty to refrain.

Dear learners, how can governments abuse the rights of individuals? For example, the excessive use of power by the police while arresting a suspect or investigating a suspect can be an example by which government may abuse the rights of individuals. That's why the duty to refrain is provided as a duty on the government.

Unit Summary

Dear learners, under the first unit we have discussed the meaning, and basic characteristics of human rights. Accordingly, we have seen that **human rights** are rights and entitlements that all individuals are entitled to by the mere fact that they are human beings. Besides, to that we have

discussed that **human rights** are classified in to three generation rights based on their history of genesis. The first-generation rights more or less include the civil and political **rights**, and the second-generation rights also include mainly the socio-economic **rights**. Such as the education rights, health rights and housing rights. The third-generation rights are also known as the solidarity **rights** are relatively recent in their development and include rights such as the right to development, environmental rights.

Finally, we have discussed the nexus between **human rights** and the state, particularly with the view on how the state enforces human rights. Accordingly, we have seen that the state has the duty to protect citizens against violations of rights. In addition to that the state also has the duty to provide certain rights. Especially the socio-economic rights that demand the provision of resources. Finally, we have seen that the state has the duty to refrain from violating rights by its own machineries.

Self-Review Questions

1. How do you define Human Right? How do you distinguish Human rights form other rights or entitlements? For example, the right to inherit property?
2. How do you classify Human rights? What is the distinction among, three generation rights (1st generation, 2nd generation and 3rd generation rights)?
3. Give examples of civil and political rights, Socio-economic rights and Solidarity rights?
4. Explain the duty of a state in the enforcement of human rights?