

Examrace

Human Rights: Definition, Evolution and International Human Rights Law

Glide to success with Doorsteptutor material for UGC : Get [detailed illustrated notes covering entire syllabus](#): point-by-point for high retention.

Definition

- J.J.S. Verma- Human dignity is the quintessence of human rights.
- J. P.N. Bhagwati- Rights. Essential for protection and maintenance of dignity of individual... human beings can develop his personality to the fullest extent.
- J D.D. Basu- minimal rights....against the State.
- Bennett-immune from Govt. interference.
- Herald Laski- conditions of social life...no man can seek....to be himself at his best.
- Sophocles was the first man to promote idea of freedom of expression against state.

Evolution

- Hr was first recognized in UN Charter 1945 which states that HR is inalienable.
- HR is rooted in philosophical concepts of natural law, Babylonian king Hammurabi, Assyrian laws, Dharm of the Vedic period.
- The origin of the concept of HR can be found in Doctrine of Stoicism.
- It says that universal force prevails on all creation, and human conduct should be judged according to the law of nature.
- Magna Carta(1215) introduced the concept in response to heavy taxation burden, was the protection against elite class.
- Post Magna Carta the concept was broadened to include all Englishman in the Bill of Rights in 1689.
- The term Human Right was first used by Thomas Paine in English translation of French Declaration of rights of man and citizen.

International Human Rights Law

- Covenant of League of Nation was silent on issues of HR but pledged to protect the minority rights.

- In 1941 the proclamation of rights of man against the State was issued by President Franklin Roosevelt.
- The proclamation had freedom of speech, Freedom of Religion, Freedom from want, Freedom from fear.
- Moscow conference-30th October 1943.
- Nuremberg Charter: Raised Issue of individual accountability for war crimes and crime against humanity.
- St. Francisco Conference suggested the establishment of international Bill of Rights.
- Thus U.N. Charter contains provisions for promotion of human rights. Art 1, 13(1)(b), 55, 56, 62(2), 68, 76(2).

Promotion & Protection of Human Rights by the U.N

Prime Responsibility For The Promotion Of Human Rights Under The U.N.Charter Rests In:

- General Assembly
- Economic and Social Council
- Commission On Human Rights

United Nation Commission on Human Rights (UNHCR)

- ECOSOC established this commission in 1948.
- Originally chaired by – Roosevelt
- Commission was composed of 18 members elected by ECOSOC, presently has 53 members

In first session, the Commission on Human Right established the sub commission on:

- Prevention of discrimination and protection of minorities.
- Drafting Committee for the preparation of the draft of International Bill of Rights.
- Replacement of Human Rights Commission by Human Right Council on 15th March 2006.

Universal Declaration of Human Rights

- The idea of protection for human rights and fundamental freedoms was conceived in the Atlantic Charter (1941) and Declaration of U.N. (1942)
- Latin America insist conference on International Bill of Human Rights along with Panama.
- The result was that the charter contained number of provisions which are of general nature and vague for the promotion and protection of human rights and fundamental rights.

- Art 55 OF U.N.- Principle of universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.
- For the implementation of the above principle General Assembly referred this matter to ECOSOC.
- Commission on H.R. appointed a committee known as drafting committee.

Committee decided to draw up simultaneously two sets of doc.

- Draft Declaration: Declaration on general principles on HR.
- Draft Convention: Convention on such specific rights as would lend themselves to binding legal obligation.

International Bill of Human Rights

This Bill of Rights consists of 6 documents:

- Universal Declaration of Human Rights (1948)
- International Covenant on Civil and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)
- Optional Protocol to the International Covenant on Civil and Political Rights (1966, enforced 1976)
- Optional Protocol to the International Covenant on Civil and Political Rights Aiming at abolition of death penalty (1989, enforced 11 July 1991)
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights(2008, enforced M 5 May 2013)
- Universal Declaration of Human Right was adopted on 10 Dec 1948(after examination of its third committee)
- Declaration Consists of = Preamble +30 Articles
- 30 Articles = 21 Civil and political rights
- 6 Economic and Social Rights

Civil and Political Rights (Art 3-21)

- Article 3: Right to life, liberty and security of persons.
- Article 4: Freedom from slavery or Servitude
- Article5: Prohibition against future, inhuman or degrading treatment or punishment.
- Article 6: Recognition as a person before the law.

- Article 7: Equality before the law and equal protection of the law without any discrimination
- Article 8: Effective remedy before the national tribunal.
- Article 9: Freedom from arbitrary arrest, detention or exile.
- Article 10: Right to fair and public hearing by an independent and impartial tribunal
- Article 11(1): Presumption of innocence until proof guilty in a public trial with all guarantees necessary for defense in criminal in criminal cases.
- Article 11(2): Freedom from ex post facto law
- Article 12: Right to privacy, family, home and correspondence.
- Article 13(1): Right to freedom of movement and residence within the borders of a state.
- Article 13(2): right to leave any country including his own and to return to his country.
- Article 14(1): Right to seek and to enjoy in other countries asylum.
- Article 15: Right to Nationality
- Article 16: Right to marry and find a family.
- Article 17: Right to own property
- Article 18: Right to freedom of thought concession and religion.
- Article 19: Right to freedom of opinion and expression.
- Article 20: Right to freedom of peaceful assembly and association.
- Article 21: Right to participate in the government of his country.

Economic & Social Rights(Art 22-47)

- Article 22: Right to social security.
- Article 23: Right to work and free choice of employment.
- Article 24: Right to rest and leisure.
- Article 25: Right to standard of living adequate for the health of himself and of his family
- Article 26: Right to education
- Article 27: Right to participate in cultural life
- Article 28: Right to good social and international order.
- Article 29: Impose certain limitation of these rights and freedom. Para 2 provides that the rights shall be provided to the general welfare in the democratic society.

Questions

1. Replacement of Human Rights Commission by Human Right Council on

a. 15th March 2006.

b. 11th March 2007

c. 2nd Jan 2006

d. 16th March 2006

Answer: A

2. Article 17 of Universal Declaration of Human Right

a. Right to own property

b. right to leave any country including his own and to return to his country.

c. Right to seek and to enjoy in other countries asylum.

d. Right to Nationality

Answer: B

-Manishika

Developed by: [Mindsprite Solutions](#)