

UNIT – II

Universal Protection of Human Rights

United Nations • UDHR 1948 • ICCPR 1966 • ICESCR 1966

Human Rights Law and Practice

Unit Overview

This unit examines the universal system of human rights protection established under the United Nations. It focuses on the landmark Universal Declaration of Human Rights (1948) and the two International Covenants of 1966 that together form the International Bill of Human Rights.

Key areas:

- Role of the United Nations in promoting and protecting human rights
- Structure, content and significance of the UDHR
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Monitoring mechanisms and Optional Protocols

What You Will Learn

01 UN Framework

Understand the UN's role in human rights promotion and protection

02 UDHR Mastery

Analyse structure, articles and historical importance of UDHR 1948

03 ICCPR Deep Dive

Examine civil and political rights and the Human Rights Committee

04 ICESCR Deep Dive

Examine economic, social and cultural rights and progressive realisation

05 International Bill

Appreciate the relationship between UDHR, ICCPR and ICESCR

06 Implementation

Identify monitoring bodies, reporting and individual complaint mechanisms

UN and Human Rights

The Charter of the United Nations (1945) is the foundational document that places the promotion of human rights among the primary purposes of the Organisation.

Article 1(3)

Purpose: to achieve international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all

Article 55

UN shall promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction

Article 56

All Members pledge to take joint and separate action in cooperation with the Organisation for the achievement of the purposes in Article 55

Key Bodies

General Assembly, ECOSOC, Human Rights Council, Office of the High Commissioner for Human Rights (OHCHR), Treaty Bodies

Universal Protection Explained

Universal

Rights apply to every human being regardless of nationality, race, sex, religion or any other status. No one is outside the protection of the system.

Protection

Mechanisms exist at international level to monitor compliance, receive complaints, issue recommendations and, in some cases, issue binding decisions.

Standard-Setting

UN develops treaties, declarations and soft-law instruments that set common standards for all States.

Accountability

States are held accountable through periodic reporting, special procedures, Universal Periodic Review and individual communications.

Universal Declaration of Human Rights

Adopted by the UN General Assembly on 10 December 1948 in Paris (Resolution 217 A). Drafted by a committee chaired by Eleanor Roosevelt with representatives from different legal and cultural backgrounds.

Nature

Not a treaty – a declaration. Soft law, yet has acquired customary international law status for many provisions.

Articles

Preamble + 30 Articles covering civil, political, economic, social and cultural rights.

Significance

First comprehensive statement of human rights; inspired more than 80 subsequent treaties and national constitutions.

Languages

Most translated document in the world (over 500 languages).

Organisation of the 30 Articles

Arts 1–2

Foundational

Dignity, equality, non-discrimination

Arts 3–11

Individual Rights

Life, liberty, slavery, torture, legal personality, fair trial

Arts 12–17

Personal Freedoms

Privacy, movement, asylum, nationality, marriage, property

Arts 18–21

Political Rights

Thought, religion, expression, assembly, association, participation

Arts 22–27

Economic & Social

Social security, work, rest, living standard, education, culture

Arts 28–30

Closing

Social & international order, duties, non-destruction of rights

Selected Provisions of the UDHR

Art 1 All human beings are born free and equal in dignity and rights.

Art 3 Everyone has the right to life, liberty and security of person.

Art 5 No one shall be subjected to torture or to cruel, inhuman or degrading treatment.

Art 7 All are equal before the law and entitled to equal protection of the law.

Art 19 Everyone has the right to freedom of opinion and expression.

Art 25 Everyone has the right to a standard of living adequate for health and well-being.

Why the UDHR Matters

01

Comprehensive Scope

Covers both civil-political and economic-social-cultural rights in one document

02

Moral Authority

Though not binding, it carries immense moral and political weight worldwide

03

Customary Status

Many of its provisions are now accepted as customary international law

04

Inspiration

Template for regional conventions, national bills of rights and subsequent treaties

05

Inclusive Drafting

Reflected diverse legal traditions – civil law, common law, socialist, Islamic

06

Living Instrument

Interpreted dynamically; remains relevant to new challenges (digital rights, climate)

International Covenant on Civil and Political Rights

Adopted 16 December 1966, entered into force 23 March 1976. Legally binding treaty that elaborates and makes enforceable the civil and political rights of the UDHR.

Parties

Over 170 States parties (as of recent data)

Structure

Preamble + 53 Articles in 6 Parts

Monitoring

Human Rights Committee (18 independent experts)

Optional Protocols

First OP (individual complaints), Second OP (abolition of death penalty)

Core Civil & Political Rights

Art 6

Right to life

Art 7

Freedom from torture

Art 8

Freedom from slavery

Art 9

Liberty & security of person

Art 14

Fair trial & due process

Art 18

Freedom of thought,
conscience, religion

Art 19

Freedom of expression

Art 21

Freedom of assembly

Art 22

Freedom of association

Art 25

Political participation

Art 26

Equality before the law

Art 27

Rights of minorities

Salient Features & Essentials

Immediate Obligations

States must respect and ensure rights immediately; no progressive realisation for most rights.

Non-Derogable Rights

Arts 6, 7, 8(1)(2), 11, 15, 16, 18 cannot be suspended even in public emergency.

Derogation Clause

Art 4 allows limited suspension of some rights in time of public emergency threatening the life of the nation.

Individual Complaints

First Optional Protocol enables individuals to petition the Human Rights Committee after domestic remedies.

Reporting System

Periodic State reports examined by the Committee; Concluding Observations issued.

General Comments

Authoritative interpretations of Covenant provisions issued by the Committee.

International Covenant on Economic, Social and Cultural Rights

*Adopted simultaneously with ICCPR on 16 December 1966, entered into force 3 January 1976.
Focuses on positive State obligations to realise economic, social and cultural rights.*

Key Concept

Progressive realisation – States must take steps to the maximum of available resources

Monitoring

Committee on Economic, Social and Cultural Rights (CESCR)

Optional Protocol

Adopted 2008; provides individual communications and inquiry procedure

Core Rights

Work, social security, family, adequate living standard, health, education, culture

Principal Rights under ICESCR

Art 6

Right to work

Art 7

Just and favourable conditions of work

Art 8

Trade union rights

Art 9

Right to social security

Art 10

Protection of the family

Art 11

Adequate standard of living

Art 12

Right to the highest attainable standard of health

Art 13

Right to education

Art 15

Cultural rights & scientific progress

KEY CONCEPT

Progressive Realisation Explained

Article 2(1) ICESCR: Each State Party undertakes to take steps... to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant.

Immediate Duties

Non-discrimination, take deliberate steps, not take retrogressive measures, satisfy minimum core content

Maximum Resources

Includes domestic resources and international assistance; States must prioritise rights in budgets

Minimum Core

ICESCR has identified essential levels of each right that must be met immediately (e.g., essential food, primary education)

Justiciability

Many national courts and the Optional Protocol treat ESC rights as justiciable despite progressive language

The International Bill of Human Rights

Together, the UDHR, ICCPR and ICESCR constitute the International Bill of Human Rights.

- UDHR (1948) – the foundational declaration of principles
- ICCPR (1966) – binding civil and political rights with strong monitoring
- ICESCR (1966) – binding economic, social and cultural rights with progressive obligations

The two Covenants were drafted to give legal force to the rights proclaimed in the UDHR. They share common Articles 1 (self-determination) and similar non-discrimination clauses.

India is a party to both Covenants (acceded 1979) with certain reservations/declarations.

Treaty Body System

State Reporting

Periodic reports by States; constructive dialogue;
Concluding Observations with recommendations

Individual Communications

Under Optional Protocols, individuals can complain
after exhausting domestic remedies

General Comments

Authoritative interpretations that guide States and
courts on the meaning of treaty provisions

Inquiry Procedure

Available under some Optional Protocols for grave or
systematic violations

Inter-State Complaints

Rarely used mechanism allowing one State to
complain against another

Follow-up

Committees request information on implementation of
recommendations

COMPARISON

ICCPR vs ICESCR – Key Differences

Nature of Obligation	Immediate respect & ensure	Progressive realisation
Resource Dependency	Generally resource-independent	Maximum available resources
Justiciability Debate	Widely accepted as justiciable	Historically contested, now evolving
Non-Derogable Rights	Explicit list in Art 4	No formal derogation clause
Individual Complaints	First OP since 1976	Optional Protocol since 2013
Primary Focus	Negative State obligations	Positive State obligations

KEY HIGHLIGHTS

Sections & Main Points

UN Charter

Arts 1(3), 55, 56 place human rights at the core of the Organisation

UDHR

30 articles; soft law with customary status; foundation of the system

ICCPR

Binding civil & political rights; Human Rights Committee; Optional Protocols

ICESCR

Binding ESC rights; progressive realisation; CESCR; Optional Protocol

Non-derogable

Right to life, freedom from torture, slavery, etc. cannot be suspended

Reporting

Primary accountability mechanism under both Covenants

India

Party to both Covenants (1979); dualist system requires domestic incorporation

Bill of Rights

UDHR + ICCPR + ICESCR = International Bill of Human Rights

Key Takeaways

1. The UN system provides the universal framework for human rights protection.
2. UDHR remains the moral and political foundation despite its non-binding character.
3. ICCPR and ICESCR convert the UDHR into binding legal obligations with monitoring.
4. Civil-political rights demand immediate action; ESC rights allow progressive realisation.
5. Treaty bodies, Optional Protocols and the UPR form a multi-layered accountability system.

Next Unit: Regional Protection Systems – European, Inter-American and African.