

# UNIT 2: INTERNATIONAL HUMAN RIGHTS LAW: FROM CLASSICAL INTERNATIONAL LAW TO CURRENT INTERNATIONAL LAW

Historical background to the international protection of human rights  
Human rights in the Charter of the United Nations  
International protection of human rights at the universal level: the work of the United Nations

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# 1. HISTORICAL BACKGROUND TO THE INTERNATIONAL PROTECTION OF HUMAN RIGHTS

- The protection of the individual in *ius Gentium*:
  - Humanitarian intervention.
  - Protection of certain rights in international treaties.
  - The LoN mandate system.
  - International labour standards.
  - Minority protection rules.
  - Foreign protection rules.
  - International Humanitarian law.
  - Studies: *Declaration of International Human Rights (1929)*, Institute of International Law.

## **1.1. Humanitarian intervention.**

- Recourse to force by States to prevent cruel and degrading treatment contrary to elementary principles of humanity, infringed upon by foreigners and nationals
- Pretext for invasions and occupations still today: justification for intervention. Kosovo and NATO.

## **1.2. The first treaty provisions in the field of human rights**

- XVII: Peace Treaty of Westphalia (1648 Holy Roman Empire-Germany and Allies): religious freedom.
- XIX: Treaty of Paris (1856): Freedom of worship and Treaty of Berlin (1878): freedom of worship and religion
- XX: Versailles Peace Treaty (1919): religious freedom

## **1.3. The League of Nations: the mandate system and international labour standards**

- LoN Pact: Constitutive Treaty IO.
- Human rights development: system of mandates art. 22 and international labour standards art. 23

- The system of mandates (art. 22):
  - *"The following principles apply to colonies and territories which, as a result of war, have ceased to be under the sovereignty of the States that previously governed them and which are inhabited by peoples who are still unable to govern themselves under the particularly difficult conditions of the modern world. The well-being and development of these peoples constitutes a sacred mission of civilization, and it is appropriate to include in the present covenant guarantees for the fulfillment of this mission.*
  - Obligation of the representative to inform the LoN on an annual basis.
- International Labour Standards (Art. 23):
  - Equal working conditions for men, women and children.
  - Need for an IO: Creation of the ILO

#### **1.4. The regime for the protection of minorities**

- Remodeling 1 GM: ethnic, linguistic, religious minorities - special treaties for protection among the Allies.
  - Protection regime and preservation rights.
  - Guarantee clause: international obligation submitted to LoN.

## **1.5. Rules concerning the protection of foreigners.**

- Standards of treatment of foreigners (rights of the State).

## **1.6. International Humanitarian Law.**

- Set of DI rules of armed conflict for human rights protection:
  - XIX: First treaties "humanization" laws and customs of war
    - ❖ Geneva Convention of 1864 military wounded in battle.
    - ❖ The Hague Convention of 189 laws and customs of land warfare.
  - XX: Geneva Conventions of 1949 and Additional Protocols I and II of 1966
  - XXI: Additional Protocol III of 2005.

## **1.7. The Declaration of International Human Rights (1929), Institute of International Law.**

## 2. HUMAN RIGHTS IN THE CHARTER OF THE UNITED NATIONS

- Modern HRD: reaction to the 2nd World War II disaster.
  - United Nations Declaration (21/1/1942).
  - United Nations Charter of 1945 drawn up in San Francisco. Conceptual and legal basis for the future development of human rights:
    - ❖ Preamble: Important for interpretative purposes.
    - ❖ Article 1 and Article 13: Purpose IO and responsibility AG.
    - ❖ Article 55: Obligation of IO.
    - ❖ Article 56: Obligation of members.
    - ❖ Articles 62 and 68: Economic and Social Council and Commission on Human Rights
    - ❖ Article 76: International Trusteeship System.

# 3. INTERNATIONAL PROTECTION OF HUMAN RIGHTS AT THE UNIVERSAL LEVEL: THE WORK OF THE UNITED NATIONS

- unit 3.
- Practicum: The United Nations Human Rights Council. How it Works?