

## F O R E W O R D

The seven papers contained in this volume deal with different aspects broadly related to the promotion and protection of human rights at the international level.

The concept of human rights was initially conceived and developed within the municipal law of States. International law traditionally has had little to do with human rights. The reason is obvious. Modern international law, which was founded in 16th and 17th century Europe, had been formulated and expanded as a law among nations, or more precisely, a law among States. It, therefore, provided only for the rights and duties of States, and those of individuals, including human rights, were traditionally stipulated solely by the municipal laws of States.

The experience of mankind has proven, however, that the worst kind of human rights abuses are committed by States, particularly during wars between States or within a State. For this reason, the Charter of the United Nations, adopted towards the end of the Second World War, in 1945, proclaimed that one of the three objectives of the United Nations is the promotion and protection of human rights; the other two objectives being maintenance of international peace and cooperation in the economic field.

The UN Charter, however, does not contain any concrete and detailed provisions for human rights. It was felt, therefore, that there should be an international bill of human rights to guide the United Nations and its Member States in order to respect, protect, and realize human rights within the framework of the UN organization.

The first session of the General Assembly of the United Nations, which met in London in 1946, established the Commission on Human Rights under the Economic and Social Council and gave it the task of drafting a set of provisions for human rights. This mission was successfully completed under the capable and energetic leadership of Anna Eleanor Roosevelt, the wife of the late President Franklin D. Roosevelt of the United States of America. The Universal Declaration of Human Rights thus was adopted by the General Assembly of the United Nations on 10 December 1948.

The problem, however, was that the Universal Declaration of Human Rights was not a treaty legally binding States. The United Nations consequently drafted and adopted a number of important international human rights conventions such as the International Covenant on Economic, Social and Cultural Rights, International Convention on Civil and Political Rights, Convention on the Elimination of All Forms of Discrimination against Women, and Convention on the Rights of the Child.

Today, human rights form a major part of positive international law, and human rights are promoted and protected through the United Nations human rights mechanism, in particular by the Human Rights Council, a successor body of the Commission on Human Rights. It should also be noted that there has been a development of international human rights treaties and institutions at the regional level such as Europe, North and South Americas, and Africa.

This is the background of the state of human rights at the international level today against which the seven papers in this publication are written.

The first paper by Ritajyoti Bandyopadhyay deals with the issue of extreme poverty and human rights by taking up the example of one homeless person in Calcutta (Kolkata). By approaching this issue from a microscopic manner, the author describes complex historical, social, economic, and political backgrounds of the problem of extreme poverty. The paper concludes that to solve the problem of poverty it would be essential for a national creative leader “to explore leaders from the affected communities rather than providing them with prescriptions.”

The second paper by Alice Beban focuses on the issue of the right to food. The author considers that the current trend of business-oriented agriculture, which takes advantage of the benefit of scale and scientific research like genetically modified organisms, does not solve the gigantic problem of billions of people suffering from hunger and no enjoyment of the right to food. The paper instead proposes to support the traditional and sustainable method of food production that has been nurtured by many small farmers and other food producers all over the world.

The third paper by Duke Ghosh also tackles the issue of extreme poverty, which is a root cause of many serious human rights violations. On the basis of an analysis of the concrete case of India, the author claims that the State-funded poverty alleviation programs have proven to

be inadequate. He instead asserts that, by supporting and strengthening small and medium-sized enterprises, we may be able to generate income through the provision of more employment opportunity to persons living in poverty.

The fourth paper by Jina Kim deals with the issue of the regional human rights mechanism in Asia, the only region that lacks such a regional human rights treaty and institution. The paper reviews the existing regional human rights mechanisms in other parts of the world, analyzes the difficulties and potentials of such a mechanism in Asia, and outlines concrete and practical steps to achieve this goal.

The fifth paper by Séverine Minot tackles a controversial theoretical problem of current international human rights discourse, i.e., “universalism versus relativism.” The author clearly favors the universal human rights approach but recognizes its historical limitations. The paper concludes that the ongoing debate surrounding this issue is not productive and proposes that the supporters of universal human rights recognize the shortcomings of their approach and accept improvements in universal human rights in view of this globalizing world.

The sixth paper by Yovana Reyes Tagle is related to the new problem of protection of indigenous knowledge. There is a big controversy between the need of documentation and sharing of indigenous knowledge in order to preserve and pass it on to succeeding generations on the one hand, and the danger of loss of its control by the indigenous peoples concerned on the other. The author insists that the only solution to this problem is to ensure full participation of the indigenous peoples in the process and control of documentation of their knowledge.

The seventh paper by Nirmalan Wigneswaran focuses on the issue of regulating the violations of human rights by private actors such as individuals, transnational companies, and international criminal organizations. The author outlines certain decisions of international human rights courts like the one in Europe, which goes beyond the traditional theory of international law that distinguishes between the responsibility of States and that of non-State actors. The paper suggests that attribution of responsibility for such abusive acts to the States concerned may be a solution.

All seven papers deal with conceptual or practical cases of human

rights issues and propose practical and innovative policy solutions. This is clearly a reflection of a new and healthy trend among young researchers of human rights who are trying to go beyond the theoretical and legal analysis of human rights provisions, which has been the usual way of international human rights discourse.

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