

Video Transcript

International Human Rights and Refugee Law – Gleider Hernández

Welcome to my mini-lecture on Chapter 16 which is the chapter that deals with international human rights law.

Now, international human rights law is the regime that itself is often the subject of an entirely different course because it concerns the protection of individuals, and often the overlap between regional systems, the international system, and domestic systems of legal protection for human rights. And that overlap is important because so often human rights violations are caused by failure of state regulation or by a breach by the state itself. And so the history of human rights law has often been of rising up against the state, of controlling the excesses of the state in the exercise of its power over civilians.

International law, historically, didn't have a direct interest in the protection of individuals, although it must be said that from the 19th century onwards, international law took an interest and a concern with the slave trade and the slaving and slavery that eventually led to the first international conventions prohibiting the treatment of individuals in certain ways. You then had, during the League of Nations period, you had human rights treaties concerning the rights of minority groups, the maintenance of very basic labour and employment rights, especially concerning women and children, and, of course, you have the laws of armed conflict which sought to minimise human suffering and to protect individuals whenever possible.

The United Nations Charter, ironically, doesn't mention human rights very often; it mentions them briefly in Article 1 as part of its purposes and principles, and then in Article 55, where it mentions vague but empowering language about how the organisation will function as a focal point for cooperation to protect international human rights. But what we've seen, since the advent of the charter, we've seen an emergence of international covenants, regional conventions and specific human rights conventions, for example, on migrant workers, or on torture, or on genocide, that have sought to regulate and to create binding obligations on states to promote human rights and to prevent their breach.

This chapter tries to survey the sheer diversity and volume of institutions and norms that are in play. It focuses on the process and the institutions that

contribute to human rights protection internationally to give you a flavour of what exists out there and how it fits within the wider human rights system and the wider international legal system. There are different methods used to secure human rights protection, so don't look at the treaties merely as stipulating binding obligations. A lot of the time, the treaties contain aspirational language, language that aims to induce states to begin behaving in a certain way. So it's rather different than other more classical areas of international law and it's also more innovative because we see an experimentation in what might work and what sort of normativity might induce best practice. Human rights protection, of course, also extends far beyond the purely legal framework, and very much depends on background conditions within states on governance conditions, on socio-economic development, on culture, on socio-economic organisation. These are also important factors and human rights lawyers are best to be cautious about over emphasising the role of law when all of these other contextual conditions are in play.

And finally, the final quarter, or third, of the chapter is dedicated to the particular situation of refugees, migrants and internally-displaced persons. These categories of persons are not usually addressed within traditional human rights because they're seen as an exceptional specialised regime in their own right. But they've become increasingly prominent, both in the news and within legal circles in the last decade, and there have been efforts such as the Global Migration Compact and the Global Refugee Compact that have become very visible as of late 2018. Those are addressed as well within the chapter, with the view to explaining both their potential and their shortcomings, in addition to explaining how they are also part of the wider regime that seeks to protect and uphold international human rights internationally on the global plane.

Thank you.