

**MASTER OF HUMAN RIGHTS AND DEMOCRATIZATION
(ASIA PACIFIC REGIONAL PROGRAM 2010-2011)**

MHRD ELECTIVE Subjects offered at Kathmandu School of Law

HRTD 6910: HRD Elective 1: Economic, Social and Cultural Rights in Developing Countries

OBJECTIVES:

- Reconceptualizing the notion of economic, social, cultural and development rights as basic foundation for achieving human rights and democracy
- Identifying the important issues, magnitude of problems and the best practices, including the examples of justiciability of ESC jurisprudence
- Developing effective approaches for the implementation of ESCR

Unit 1: INTRODUCTION

- 1.1. Concept of ESCR
 - 1.1.1. Traditional notion of generation theory
 - 1.1.3. Human rights-based approach of ESCR
- 1.2. ESCR implementation guidelines
 - 1.2.1. Equality and non-discrimination
 - 1.2.2. Immediate implementation
 - 1.2.3. Progressive realization
 - 1.2.4. International cooperation

Unit 2: MAJOR ISSUES AND CONCERNS OF DEVELOPING COUNTRIES

- 2.1. Mapping adequate standards of living
 - 2.1.1. Right to food
 - 2.1.2. Right to housing
 - 2.1.3. Right to health
 - 2.1.4. Right to education
 - 2.1.5. Right to/at work
 - 2.1.6. Right to social security
 - 2.1.7. Right to sustainable development
 - 2.1.8. Right to Culture

Unit 3: SITUATION OF IMPLEMENTATION OF ESCR IN DEVELOPING COUNTRIES: CASE STUDIES

- 3.1. State Measures
 - 3.1.1. Constitutional framework
 - 3.1.2. Status of implementation
- 3.2. Scope of judicial activism: Case Studies
 - 3.2.1. India
 - 3.2.2. Nepal
 - 3.2.3. Sri Lanka
 - 3.2.4. South Africa
 - 3.2.5. Other relevant from Asia Pacific Region (??)

REFERENCE:

- 1 Amartya Sen, *Poverty and Famines, An Essay on Entitlement and Deprivation*, (Oxford University Press, 1999.)
- 2 Amartya Sen, *Resources Values and Development*, (Oxford University Press, 1999)
- 3 Amartya Sen, *On Economic inequality*, (Oxford University Press, Fifth Edition 1999)
- 4 Asbjorn Eide et al (Edited) “*Economic Social and Cultural Rights*” Second Revised Edition, (Kluwar Law International, 2001) 323 EID.
- 5 *The Political Economy of Hunger*, Edited by Jean Dreze, Amartya Sen and Athar Hussain (Oxford University Press, 1999)
- 6 Gudmunder Alfredsson et. al. (edited), " A Thematic Guide to Documents on *Health and Human Rights*" [Martinus Nijhoff Publishers, 1998] 323 ALF.
- 7 Jack Donnelly, “*Universal Human Rights in Theory and Practice* “, [Cornell University Press, London, 3rd print 1993 and 2005] call no. 323 JAC.
- 8 Darren J Q, Byrne, “*Human Rights: An Introduction*, [Pearson Education Limited 2003 (3rd Indian Reprint, 2005)]
- 9 Sangroula, Yubaraj “*Concepts and Evolution of Human Rights: Nepalese Perspectives*” [KSL, 2005] 323.5426 SAN.
- 10 Janusz Symonides (edited) “*Human Rights Concept and Standards*”, [UNESCO publishing, Rawat Publications, 2002] 323 SYM.
- 11 Baxi Upendra, " *The future of Human Rights*", [Oxford Publication, Second Ed. 2006] 323 BAX
- 12 M.A. Thomas, “*The Struggle for Human Rights*”, [Asian Trading Corporation, 1992].323 THO.
- 13 Sangroula, Yubaraj 2005. *Human Rights in Nepal: A Critical Analysis*. [Kathmandu School of Law 2005]
- 14 V.T. Patil, "*Human Rights Development in South Asia*", [Authors Press, 2003) 323 PAT
- 15 D.K. Tiwari *Laws of Protection of Human Rights*, [Alia Law Agency, 2000] 323 TIW
- 16 R.C. Paul "*Protection of Human Rights*", [Commonwealth, 2000] 323 PAU

- 17 Katarina Tomasevski, *Responding to Human Rights Violations 1946-1999*, (International Studies in Human Rights, Martinus Nijhoff Publishers, Vol. 63, 2002) 323 TOM
- 18 Manoj K. Sinha "*Implementation of Basic Human Rights*", [manak Publication Pvt. Ltd.1999) 323 SIN
- 19 George Ulritch et. al. (edited) " Human Rights in Development" (*Reparation*), [Kluwar Law International, Nordic Human Rights Publications, 2003] 323 ULR
- 20 *The Challenge to the South*, The Report of the South Commission, (Oxford University Press, 1992)
- 21 VT Patil, *Human Rights Development in South Asia*, Authors Press, 2003 323 PAT.
- 22 *Choice, Welfare, and Development*, Edited by K. Basu, P. Pattanaik & K. Suzumura (Oxford University Press, 2000)
- 23 Gudmunder Alfredsson and Asbjorn Eide. (edited), " *The Universal Declaration of Human Rights*" [Martinus Nijhoff Publishers, 1999] 323 ALF
- 24 Veena Pani Pandey, "*International Perspectives on Human Rights*", {Mohit Publications, 1999) 323 PAN.
- 25 Research papers on ESCR thematic issues available at KSL library (Compilations since 2000)

HRTD 6911: HRD ELECTIVE II: Women's Human Rights (WHR)

OBJECTIVES

- Familiarizing students to the normative development of women's human rights step-by-step
- Identifying critical issues and concerns of women's human rights in general and in the Asia and Pacific in particular
- Developing strategies and ways to eliminate all forms of discrimination (in law and practice) against women

Unit 1: INTRODUCTION

1. 1. Concept of gender equality under general human rights instruments
 - 1.1.1. Scope
 - 1.1.2. Limitation
- 1.2. Development of the concept of WHR
 - 1.2.1. Pre-UN era
 - 1.2.2. Post UN

Unit 2: SCOPE OF WHR UNDER CEDAW

- 2.1. Objectives and approaches

- 2.1. Guiding principles
 - 2.1.1. Non-Discrimination
 - 2.1.2. Equality
 - 2.1.3. State responsibility
- 2.2. Monitoring mechanism
 - 2.2.1. State reporting
 - 2.2.2. Individual complaint/inquiry mechanism

Unit 3: ISSUES AND CONCERNS OF WHR IN ASIA

- 3.1. Violence against women: Forms and Consequences
 - 3.1.1 Domestic violence
 - 3.1.2. Violence in the community
 - 3.1.3. Perpetrated or condoned by State
- 3.2. Cultural relativism v. WHR: Case studies
- 3.3. Civil and political participation of women
- 3.4. Protection of women in armed conflict
- 3.5. Judicial activism for WHR

REFERENCE:

1. Flavia Agnes, *Law and Gender Inequality*, (Oxford University Press, 2004 Fourth Edition) 305.3 AGN.
2. CJ A.S. Anand, *Justice for Women*, Compiled by Munisha Gandhi (Universal Law Publishing center, 2002) 305.3 ANA
3. Dr. Shanker Kumar Shrestha, "A Step Towards *Victim Justice System*" (Pairavi Prakashan, 2001) 344.028 SHR
4. Tapan Biswal, *Human Rights Gender and Environment*, (Viva Books Pvt. Ltd New Delhi, India, 2006) 323. BIS
5. M.L. NaraSaiah, *Women and Human Rights*, (Discovery Publishing House, New Delhi, 2005) 323.34 NAR
6. Mohini Chatterjee, *Women's Human Rights* (Aaviskar Publishers, Jaipur, India 2005) 323.34 CHA
7. The Human Rights Watch Global Report on Women's Human Rights (Oxford university Press, Delhi, 1998) 323.34 IND
8. "The Discrimination Against *Women*", The Convention and the Committee, Fact Sheet No. 22, [UN Publication] 323 UNI
9. Sangroula Yubaraj and Pathak Geeta, "Gender and Accessibility to Justice" : Nepalese perspectives, (KSL Publication, 2002)
10. Kathmandu Law Review, Vol.1, Number 1 (Law Students Society, KSL 2008) ksl library
11. General Comments and General Recommendations of the HRC, ICESCR and CEDAW

HRTD 6912: HRD Elective III: Rights of Minorities and Indigenous Group

OBJECTIVES

- To help students realize and justify the concept of full and equal enjoyment of human rights for all
- To familiarize students with the affirmative provisions under the human rights framework;
- To prepare students for critical understanding of issues of human rights of vulnerable individual/s and the causes and consequences of such vulnerability;
- To enable students to contextualize the Human Rights Framework for the advancement and empowerment of disadvantaged section;

UNIT 1: INTRODUCTION

- 1.1. Concept of full and equal enjoyment of human rights
- 1.2. Concept of substantive model of equality
- 1.3. Sociological analysis of vulnerability
- 1.4. Causes and consequences of marginalization

UNIT 2: HUMAN RIGHTS OF MINORITIES

- 2.1. Defining minorities under human rights standards
 - 2.1.1. Ethnic or national minorities
 - 2.1.2. Religious minorities
 - 2.1.3. Linguistic minorities
 - 2.1.4. Recognized principles (Jurisprudence)

UNIT 3: HUMAN RIGHTS OF INDIGENOUS GROUPS

- 3.1. Basic characteristics of indigenous groups
- 3.2. Human Rights Standards
 - 3.2.1. UN Standards
 - 3.2.2. ILO Convention 169
 - 3.2.3. Regional Human Rights Framework
- 3.3. Recognized Principles (Jurisprudence)

UNIT 4: CRITICAL ISSUES AND CONCERNS OF MINORITIES AND INDIGENOUS GROUPS

- 4.1. Self-determination
 - 4.1.1. Substantive participation
 - 4.1.2. Determining political status

4.1.3. Pursuing ESC Development

4.2. Protection of Indigenous identity v. Development projects: Case studies

REFERENCES:

1. Sandra Fredman (edited by), "*Discrimination and Human Rights*": *The Case of Racism* (Vol.XI/1), [Academy of Oxford University press, 2001] 323 ERE.
2. C. W. Watson, "*Multiculturalism*", [Open university Press, 2000] 305.8 WAT.
3. J.K. Das, "*Human Rights and Indigenous Peoples*", [Efficient Offset Printers, 2001] 323 DAS.
4. Gudmunder Alfredsson et. al. (edited), "*Justice Pending: Indigenous Peoples and Other Good Causes*", [Martinus Nijhoff Publishers, 2002] 323 ALF.
5. Nalini Rajan, "*Democracy and the Limits of Minority Rights*" [Sage Publication, 2002] 321.8 RAJ.
6. M.G. Chitkara: *Human Rights: Commitment and Betrayal*, [PH Publishing Corporation, 1996] 323 CHA.
7. Chattarjee Debi et. Al. (edited), '*Human Rights Theory and Practice*" [South Asian Publishers, Delhi, 2002] 323 CHA.
8. L.N. Basu, "*Human rights in A Global Perspectives*", [Aviskar Publishers, 2003] 323 BAS.
9. Michael J. Perry, *The Idea of Human Rights, Four Inquiries* (Oxford, 1997)
10. B.S. Wagmare, "*Human Rights: Problems and Prospects*" [Kalinga Publication, 2001] 323 WAG.
11. Ashwini Kant Gautam, "*Human Rights and Justice System*", [Efficient Offset Printers, 2001] 323.02 GAU.
12. A.H. Robertson and J.G. Merrils "*Human Rights in the World*", 4th edition, [Universal Law Publishing Co. Pvt. Ltd., 1st Indian Reprint 2005] 323 ROB.
13. Human Rights" *Contemporary Forms of Slavery*", fact Sheet No. 2 (UN Publication) 323 UN.
14. Human Rights and *Globalization*, Edited By Dr. Mizanur Rahman (Published by ELCOP, 2003) 323 RAJ.
15. Human Rights and *Development*, Edited by Dr. Mizanur Rahman (Published by ELCOP, 2002) 323 RAJ.
16. Hans-Otto and Gudmundur et. al, "*Human Rights and Good Governance*", [Martinus Nijhoff Publishers,2002]
17. T.K. Oommen, "*Citizenship, Nationality and Ethnicity*", [Polity Press, 2001] 305.8 OOM.
18. Gokulesh Sharma, *Human Rights and Legal Remedies* (Deep and Deep, Delhi, India 2000) 323 SHA

Note: *Separate compilations of reading materials for each unit has been prepared subject-wise.*