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8.0 OBJECTIVES

Human rights fit uncomfortably in an international order based on sovereign states. Why is it so? This unit answers this by examining the nature of the international order and the growth of the international human rights movement. After going through this unit, you will be able to:

- explain the concept of sovereignty,
- identity the key features of international relations,
- trace the emergence of international human rights movement,
- describe the obstacles in the enforcement of human rights.

8.1 INTRODUCTION

In the present international order, also called the Westphalian system (after the Peace of Westphalia signed in 1648) territorial states are the leading actors. The script of world politics is written mainly for territorial states. Everybody else is a supporting actor.

What gives the territorial state this special place, the status of an independent actor, is sovereignty.
Sovereignty is the basic assumption about authority of modern political life, domestically and internationally. Sovereignty, simply put, is supreme political authority. In medieval Europe, when political authority was highly decentralised, no earthly power was regarded as sovereign. That medieval order collapsed when the monarchs rose to absolute prominence over rival feudal claimants such as the aristocracy, the Papacy and the Holy Roman Empire. This centralisation of political authority marked the emergence of the modern territorial states.

In the early territorial states, sovereignty was regarded as a personal attribute of the ruler. In modern international relations, sovereignty resides in the state. The government, the principal political organ of a state, whether democratic or otherwise, has the final and absolute authority within its territory and its occupants.

To be sovereign is to be subject to no higher power. This dimension of sovereignty emphasising the political independence of the state was established by the principle of the Treaty of Westphalia (1648) *cuius regio eius religio* (or “whosoever territory, his religion”). This meant that the ruler of each territory could determine the religious (domestic) policies for that area without interference by anyone else. Other states are obliged not to interfere in the internal affairs of a state. A state’s actions are a legitimate concern of other states only if those actions interfere with their sovereignty.

Many treaties and agreements have codified these principles. The Charter of the United Nations incorporated the principle of territorial integrity and political independence in Article 2 (4) thus: "Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations." The Charter reiterated the principle of non-intervention and domestic jurisdiction in Article 2 (7): "Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter..."

The centrality of sovereignty in modern international relations is another way of saying that international relations is anarchic, that is, international system functions in the absence of hierarchical relations of authority. There is no rule making and rule enforcing institution in international relations. But anarchic or the absence of higher political authority above the state does not necessarily imply chaos or absence of order. In fact, although there is no international government, there exists a rule governed social order in international relations. States, initially free of obligations to one another, have accepted a whole body of formal and informal rules (for instance, international law, rules governing diplomacy and recognition of spheres of influence, etc. These restrict the freedom of action of a sovereign state in certain activities and spheres.

These restrictions on a state's freedom of action do not amount to loss of sovereignty. This is so because they have been voluntarily accepted by states as sovereign entities. The most basic international norms, principles and practices continue to rest on state sovereignty. Consider this: The illegal interventions by powerful states in the internal affairs of other states can be traced back to the absence of higher political power or legal authority above the state. That is the essence of sovereignty.

While states claim exclusive jurisdiction over their territory, and citizens, international human rights also seek to regulate the way states deal with them. International human rights policies, therefore, seem to involve unjustifiable intervention in sovereign state's affairs. And yet, in the last five decades or so, human rights have emerged as legitimate area of international action. In the following section, we will examine how international law came to regulate the way
governments treat their own citizens and assess human rights activity in a political order structured around state sovereignty.

**International Human Rights Framework**

When we refer to international human rights policies, laws or practices, it becomes necessary to know the framework inside which the above are seen in practice. Today many human rights instruments make up the international human rights framework. Along with the Universal Declaration of Human Rights (1948), the crucial covenants, the International Covenants of Civil and Political Rights and the International Covenant of the Economic, Social and Political Rights constitute the International Bill of Rights.

Next are instruments that protect against gender, cultural and racial discriminations-the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention on Elimination of All Forms of Racial Discrimination (1966), and Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992).

Then there are instruments that protect against various crimes and stipulate punishments-the Convention on the Prevention and Punishment of the Crime of Genocide (1949), the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment.

Several instruments focus on the rights of specific groups such as women, children, indigenous peoples and the disabled.

There are also international human rights law dealing with treatment of prisoners and a code of conduct for law enforcement officials who deal with human rights in administration of justice.

Finally, a number of declarations deal with social welfare, progress and development including the 1986 UN Declaration on the Right to Development.

Together these treaties, conventions and declarations emphasize the interdependent multi-dimensional character of human rights which create legal obligations for signatory states and specialised roles, functions and obligations for the agencies and organisations of the United Nations system.

Consider the following statements carefully and state whether they are true or false:

1. International law and informal rules place restrictions on state autonomy or freedom of action. This establishes an international political order in which rules are enforced by an international organisation.

2. International organisations are created by states and remain their creatures. They do not have independent lives of their own.

3. Some non-state actors such as multinational organisations are financially stronger than some of the states and may even influence the behaviour of states. But they are not independent actors on the international stage.
8.3 STATE SOVEREIGNTY AND HUMAN RIGHTS

Human rights, as a standard subject of international relations are of recent origin, emerging with the United Nations.

In the nineteenth and early twentieth centuries, the European powers and the United States did occasionally intervene in the Ottoman and Chinese empires to rescue nationals caught in situations of civil strife or to establish or protect special rights and privileges for Europeans and Americans. There is hardly an instance to cite where they intervened to protect foreign nationals from their own government. In fact, human rights were seldom even a topic of diplomatic discussion. Likewise, the 'humanitarian law' of war expressed in documents such as the Hague Convention of 1907, limited only what a state could do to foreign nationals, not the ways a state treated its own nationals or peoples over whom it exercised colonial rule.

A major exception was the nineteenth century anti-slavery campaign. As early as the Congress of Vienna in 1815, major powers recognised an obligation to abolish the slave trade. At the Brussels Conference of 1890, a comprehensive treaty to abolish the slave trade was finally concluded. But even slavery, as opposed to international trade in slaves, was treated as largely a national matter. A major international treaty to abolish slavery was not drafted until 1926. In the 1920s, the International Labour Organisation (ILO) also began to deal with some workers rights. In addition, the League of Nations was given limited powers to protect ethnic minorities in areas where boundaries had been altered following the First World War. With these marginal exceptions, human rights had not been a topic of international relations.

It was after the World War II that the idea that a government's treatment of their own citizens should matter to the rest of the world, gained acceptance. The event that brought this to the fore are the barbarities which were practised by the Nazis in Germany before and during the World War II. The Charter of the United Nations (UN) that was drafted at around this time, represented a break from the dominant tradition of national sovereignty over human rights. The Charter expressed a determination "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, and in equal rights of men and women." The purposes of this new international organisation were stated to be, among other things, "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples ... [and] to achieve international co-operation ... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion....". In two key articles of the Charter of the UN, all members "pledge themselves to take joint and separate action in co-operation with the organisation" for the achievement of these and related purposes.

Lest anyone gets carried away by the Charter's good human rights intentions, however, Article 2 (7) emphasised the principle of non-intervention. More important, the reiterated obligation in Article 55 to promote "universal respect for, and observance of, human rights and fundamental freedoms for all" is presented as a means of assuring the conditions of stability and well being necessary for peace and security, not as an end equal in value to peace and security. These limitations around the Charter's commitment to human rights clearly suggest a promotional role for the UN. Legal scholars point out that the delegates to the founding conference in San Francisco rejected a Charter provision that would have given the UN the mandate to protect, not simply to promote human rights.

Once the international organisation came into being, the member states lost no time in elaborating human rights standards by adopting the UN Declaration of Human Rights (UDHR) in 1948.
UDHR enumerated without clear prioritisation, virtually all the demands being made by citizens on their governments around the world—demands that governments not to interfere in their civil liberties and guarantee basic amenities like jobs, education, and health care.

Although the UDHR was a 'standard of achievement for all people and all nations' and not a treaty imposing legal obligations, it provided a new aura of legitimacy to human rights in international relations which was utilised by the international human rights constituency to translate their demands into binding international and domestic laws. The most comprehensive multilateral human rights treaties are the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. These were adopted by the General Assembly in 1966. And following their ratification by thirty-five member states, they entered into force in 1976. That is, the Covenants became binding legal obligations of the signatory states. Today, over half the states of the world have become parties to the Covenants, and virtually all the rest (including most prominently, the United States) have either signed but not ratified the Covenants or otherwise expressed their acceptance of and commitment to these norms.

Treaties are a source of international law. Law-making treaties such as the Genocide Convention of 1948 and the International Human Rights Covenants of 1966 are typically drafted by an international organization or conference and then presented to states for their consideration. Neither the drafting of a treaty nor its approval by the UN or any international organization gives it legal effect. For a treaty to be binding, it must be accepted by sovereign states. After a specified number of states become parties (states that have ratified or acceded to the treaty) to the treaty, the treaty becomes binding. And it is binding only on those states that have formally and voluntarily accepted it.

Since their adoption by the UN General Assembly in the mid-1960s, these basic covenants increasingly referred to as the "international bill of rights", have in turn generated a multitude of specialised and auxiliary human rights conventions and forums.

At the multilateral level, the UN Human Rights Commission began to inquire into the human rights situation of specific states. The Commission also began to conduct confidential investigations of 'communications' (complaints) that suggested "a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms". In 1986, the Committee on Economic, Social and Cultural Rights was created to improve reporting and monitoring in this important area.

At the non-governmental level, human rights non-governmental organisations, representing the interests of individuals and groups have become more numerous and active. Their activities—expressing views, drawing up resolutions, drawing attention to violations, urging studies, attending trials, sending fact-finding missions, protesting misconduct, and so on—have strengthened international human rights norms and constrained the actions of rights-violating states.

Also several nations, particularly Western democratic nations led by the United States, have become vocal in expressing and sometimes even acting on their human rights concerns. They have often used their political, diplomatic, economic and financial leverage to press certain states to respect human rights.

With human rights gaining in strength, today states are having to contend with a new conception of legitimacy—moral legitimacy based on human rights performance. Traditionally, a government was considered legitimate if it exercised authority over its territory and accepted the international legal obligations that it and its predecessors had contracted. What it did at home was largely
irrelevant. Today, a moral legitimacy based on human rights performance is being weighed against legal legitimacy.

While human rights advocacy groups often emphasise the moral source of legitimacy, states attitudes are different. The United States described the Noriega regime in Panama as illegitimate on human rights grounds for being repressive and undemocratic and overthrew that regime through military action. But despite the almost universal condemnation of the Tiananmen massacre in 1989 (when Chinese troops fired on armed student demonstrators and brutally crushed the emerging democratic movement in the Peoples Republic of China), the US did not let its human rights concerns stand in the way of more or less regular diplomatic relations, including continuation of special trading privileges for China. Take a more recent example. In Turkey, an estimated 3,000 Kurdish villages have been destroyed, three million people internally displaced and thousands of Kurds killed by the Turkish security forces in the context of the 15-year armed conflict with the PKK. There have been no threats of action by the international community. Instead, Turkey was accepted as a candidate for European Union membership. Clearly, human rights concerns are subordinate to other considerations such as power and legitimacy. In other words, human rights as a standard of legitimacy has been partially and incompletely incorporated into the rules of the international society of states.

With international human rights constituency becoming more active, states are also having to come to terms with the expanding international law of human rights (see box II) in the sense of deciding on the extent of its domestic application. Here, there is dispute of theory about whether domestic or international law should take precedence over the other. There are also problems in interpreting customary norms that are fashioned in multicultural setting. Still, some progress has been made in this direction. The celebrated case here is that of Filartiga v. Pena Irala (1980). In this case, Pena, a Paraguayan police inspector, was sued in a US court by Filartiga, the father of a student whom Pena had tortured to death in a Paraguay jail. Pena's case was that torture was a violation of the law of nations, and that the US court had jurisdiction in the matter, by virtue of the 1789 Alien Tort Statue allowing such competence when a tort had been committed in violation of the law of nations. Pena's lawyers argued that torture was not a violation of the law of nations, and that anyway, the proper forum for consideration of the case was Paraguay. This argument succeeded in the first instance. But, on appeal, it was found that torture was a violation of custom international law, that the Alien Tort Statue applied. The judge concluded that "the torturer has become - like the pirate and slave trader before him-hostis humani generis, an enemy of mankind." Torture, thus, becomes not a national but an international violation of human rights.

States can be subject to substantial international legal obligations to which they have not consented. This is because next to treaties, custom is the other main source of international law. Treaties are essentially contractual agreements of states to accept certain specific obligations. Customary rules of international law are well-established state practices to which a sense of obligation has come to be attached.

In the Filartiga vs. Pena-Irala case of 1980, the US Court held that torture was a violation of customary international law. Some lawyers argue that the UQHR had, over time, become a part of customary international law, or at least strong evidence of custom.

A significant aspect of the Filartiga vs. Pena Irala case is that it breached the principle of state sovereignty by holding a foreign individual guilty of human rights violations when the offence was committed in his own state. This practice has not gained ground, but the case clearly indicated the existence of social obligations laid upon individuals as humans as well as citizens.
The expanding international human rights activity reflects and has helped to create a transformed understanding of the place of individual in international relations. Traditionally, states have been the sole subjects of international law. Only states have legal standing, the right to bring actions in international tribunals. The rights and interests of individuals could be protected only by states acting on their behalf. This has begun to change. Individuals and their interests are beginning to find a place in international law and international relations. The European Convention for the Protection of Human Rights and Fundamental Freedoms which was signed in 1950 (along with subsequent protocols) has given individuals the chance to obtain human rights redress from forums outside of their own national systems. The European system became a model for the human rights conventions of the \textit{UN} and other regional groupings (particularly, the American Convention on Human Rights that entered into force in 1978). But none have gone as far as the European regime in allowing individuals to complain against their own governments. In the late 1960s, the Economic and Social Council established what is popularly known as the \textit{1503 Procedure}, whereby anyone in the world, or any group of persons who feel they have been prevented from exercising human rights or fundamental freedoms may complaint to the \textit{UN}. The Optional Protocol to the International Covenant on Civil and Political Rights (which entered into force in 1976) and ratified so far by only thirty seven countries, created the United Nations Human Rights Committee with the power to consider written petitions directly from individuals who claim that their rights have been violated with the proviso that the claimants must first “have exhausted all domestic remedies”. The committee can hold hearings and issue findings. These findings are not binding judicial decisions as those of the European Court. However, public exposure of country reports on human rights situation creates a morally binding force on the respective states to guard themselves against international criticism.

\section{8.4 HUMANITARIAN INTERVENTIONS}

With the collapse and break up of the Soviet Union and emergence of a new world order in which values like democracy, the rule of law and respect for human rights were supposed to be top priorities, idea of the right or duty of ‘intervention’ to deal with the humanitarian and human rights problems has gained currency. The ‘right’ or ‘duty’ of intervention came to public attention for the first time when several Western nations took military action against Iraq in April 1991. The operation was presented as a measure to protect the Kurds in northern Iraq, who were being harshly oppressed by the Iraqi authorities. In 1992, Operation Hope was carried out in Somalia to put an end to anarchy there and restore conditions in which people could survive. In 1994, France carried out Operation Turquoise in Rwanda, ostensibly to protect its inhabitants from a genocidal war that was tearing the country apart. There have also been interventions in Bosnia and Herzegovina (1994-95), Liberia, Sierra Leone, Albania in 1997 and in Kosova (1999).

But is there a ‘right’ or ‘duty’ of humanitarian intervention? Is the ‘duty to assist’ a moral right which can override the traditional legal rules. Is it a principle to be incorporated into international law?

Governments supporting foreign intervention argue in terms of morality and universal values. The US government, for instance, justified the North Atlantic Treaty Organisation’s bombing of Belgrade on the grounds that to turn away would be a “moral and strategic disaster”. Supporters of intervention also cite the development of international law to back their arguments. They argue that the Charter of the \textit{UN} allows the \textit{UN} Security Council to take coercive measures including military action, if it determines that there is a threat to “international peace and security”. In fact, military intervention by Western nations in Iraq and in all subsequent occasions cited above have been authorised by the \textit{UN}. 
Governments opposed to foreign interventions argue that the basic international norms and principles rest on national sovereignty and non-intervention in the internal affairs of a state. As we noted elsewhere, the UN charter has codified these principles in Article 2 (4) and Article (7).

Any evaluation of humanitarian intervention rests fundamentally on our conception of international society and the place of human rights in it. Jack Donnelly gives us three competing theoretical models of the place of human rights in international relations: the statist, the cosmopolitan and the internationalist models—each with its own conception of international society and its role in international human rights.

### 8.4.1 Three Models of International Human Rights

The traditional statist model sees the sovereign nation-state, operating in an anarchical international environment, as the central and overriding feature of international relations. There are elements of order in international relations, but that order arises largely out of the actions of the state. In other words, state power is the chief determinant of international outcomes. For a statist, state interests, defined in relatively narrow, selfish terms, are the principal motivators of international action. Contemporary statisticians certainly admit that the state is no longer (if at all they were in the past) the sole significant actor and that human rights are no longer the exclusive preserve of the states. Nonetheless, they insist that individuals and their rights and interests are largely peripheral to international relations. Individuals are objects, rather than subjects, of international law and politics. The most that individuals can hope for is that their own state will act on their behalf. Human rights remain principally an internal matter of a sovereign state and a peripheral concern of inter-state relations. For a statist, there is nothing like an independent international society. In particular, there is no international body with the right to act on behalf of human rights.

Standing in sharp contrast with the statist model there is the cosmopolitan model. The cosmopolitan sees individuals more as members of a single world political community than as citizens of states. Instead of thinking of international relations, that is the relations between states, a cosmopolitan thinks of a world political process in which individuals and other non-state actors are important direct participants. For cosmopolitans, the world society is independent of, and in some sense superior to, the state and the society of states. Although they admit to the reality and power of states, they emphasise on challenges to the state and its powers from below, by individuals and non-governmental organisations, and from above, by international and regional organisations, and by the independent activities of a great array of multinational actors. They often see international organisations, and even some international NGOs, as representatives of an inchoate international society of humankind above the society of states. International action on behalf of human rights is relatively unproblematic in such a model. When states are guilty of gross and systematic violations of human rights, or are unable to respond effectively to situations of humanitarian crisis, individuals, NGOs, states, regional and international organisations all have at least a right, and perhaps even responsibility, to act. In fact, cosmopolitans, largely reverse the burden of proof, requiring justification for non-intervention in the face of gross and persistent violations of human rights.

Between the statist and cosmopolitan models, lies the internationalist model. In this model, individuals are not given the prominence they receive in the cosmopolitan conception, nor are they peripheral as in the statist conception. Internationalists admit that the international society is on the whole a society of states, but they see greater international social constraints on the liberty of states than do statists. Unlike the statist, an internationalist is less inclined to denigrate ethical constraints, declaratory norms of international law, and the constraining influence of non-state actors. In other words, without denying the continued centrality of states, they focus attention on the international society of states, which imposes only limited restrictions on states.
Internationalists stress the evolving consensus among states and non-state actors alike on international human rights norms. Since there is no consensus among states and non-state actors on norms for humanitarian intervention, the internationalist does not have a single perspective on humanitarian intervention. Defining his perspective largely in terms of the two ideal-types, the statist and the cosmopolitan conceptions of international relations, the internationalist is often torn in both directions. The final stand that the internationalist would take, closer to the statist or the cosmopolitan model, is a matter of how he/she would interpret the particulars of a case and the relevant international norms.

Check Your Progress 2

1. State whether the following statements are True or False
   a) Article 2(7) of the UN Charter emphasises the principle of non-intervention.
   b) An individual of a foreign country can be held guilty for violating rights of another individual in his country.
   c) Optional Protocol to the International Covenant on Civil and Political Rights empowers an individual to appeal to the UN Human Rights Committee.
   d) India is not a signatory to the Optional Protocol?

2. What would be the typical reaction of a statist to the Filorimo v. Penu Irala case?

3. Match the following:
   i) Statist
   ii) Cosmopolitan
   iii) Internationalist

   a) UDHR has become a customary law and the international community should enforce it.
   b) There is no international authority with the right to act on behalf of human rights.
   c) Consensus on humanitarian intervention must be evolved.

The statist model, although it was accurate until the Second World War, is at best a crude and somewhat misleading approximation today. Before the end of the Second World War, human rights practices of a state were, with few exceptions, considered a matter of domestic jurisdiction, largely beyond the legitimate concern of other states. As we saw, human rights have become a standard subject of bilateral and multilateral diplomacy. We also saw that state authority over human rights has been constrained by the activities of the non-governmental organisations representing the interests of individuals and groups.

This does not, however, mean that cosmopolitan model gives an accurate description of the present. In fact, the cosmopolitan model is largely a prediction about the direction of change in world politics. Some sort of internationalist model provides the most accurate description of the place of human rights in contemporary international relations. International human rights activity is permissible only to the extent authorised by the formal or informal norms of the international society of states.

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Here, we see that states, protective of their sovereignty (right of non-interference) have not granted to the UN or any other international agency significant enforcement powers. They have created and accepted international legal obligations that are to be implemented entirely through national action. None of the obligations to be found in the multilateral human rights treaties can be coercively enforced by any external actor.

Typically, human rights treaties require states parties to submit periodic reports on their practices with respect to the rights recognised in the treaty. The supervisory committee established by the relevant treaty is authorised to study these reports, publicly question state representatives about their contents and omissions, and make comments on them. But once the review of a report has been concluded, the state in question remains free to do as it sees fit. The obligation to submit a report is the only international implementation obligation a state accepts by becoming a party to a typical international human rights treaty. The UN Commission on Human Rights, the principal forum for the development of international human rights norms, is as lacking in coercive enforcement powers as the supervisory bodies of the various treaties. At the regional level, the Council of Europe has established effective systems of human rights enforcement which includes binding judicial decisions by the European Court of Human Rights. But even here, there is no way of guaranteeing the sentence will be carried out. Sovereignty has proved incompatible with the existence of a kind of worldwide “international police force”.

In the present international order based on sovereign states there is no legal sanction for any form of intervention. While this places hurdles in the enforcement of human rights, many consider that it is less bad than the one would include a broad right of humanitarian intervention. After all the principle of non-intervention is the result of a historic battle waged by the weakest nations which were under colonialism. The Charter of the UN, of course, did not put an end to interventions by the big powers, but at least it gave the weaker nations a chance to oppose the use of force. A return to the situation where there was a right to intervene which could, hypothetically, involve side-stepping the UN decisions, would mean that the powerful states of the international system could set themselves up as sole judges of what humanity supposedly needs. Once again, might would be right.

1. The weak human rights enforcement mechanism has facilitated many states to subscribe to international human rights agreements even though they cannot or may not implement them in practice. Why has the United States not ratified the Covenants? Find out.

The President of Algeria and Chairman of the Organisation of African Unity, Mr. Abdelaziz Bouteflika, has compared international intervention with breaking into a neighbour’s house because a child has allegedly been beaten by his parents. Is it an apt comparison? What action would you take if your neighbours ill-treat their own children?

Check Your Progress 3
3. The UN Secretary General, Kofi Annan, had outlined some criteria that might guide the UN Security Council in authorising interventions, whether by the UN, or by a regional or multinational organisation. These criteria include: the scale and nature of the breaches of human rights and international humanitarian law; the incapacity of local authorities to uphold order or their complicity in the violations; the exhaustion of peaceful means to address the situation; the ability of the UN Security Council to monitor the operation; and the limited and proportionate use of force, with attention to the repercussions upon civilian populations and the environment. What is your reaction to these criteria? Will these eliminate the misuse of power by the big powers? Will the big powers now have more reason to intervene in the affairs of weaker states?

8.5 LET US SUM UP

Following the UDHR, several multilateral human rights treaties have been drafted and ratified by states. These have created a strong and comprehensive set of international human rights norms, to which most states publicly subscribe. These norms, along with the supervisory activities of committees created by these treaties, and the activities of international, regional and non-governmental organisations, have substantially transformed international attitudes and policies towards human rights.

The formal and informal restrictions on state sovereignty over human rights, the prominent role of individuals and groups in international relations, the recognition of human rights as a standard of moral legitimacy point to the departures and deviations from the traditional Westphalian state system. At the same time, it should be noted that even though the state is increasingly legally obligated and politically pressured to treat persons in accordance with universal (and regional) standards, formal sovereignty remains with the states. States remain supreme in the making and implementation of international human rights policy and state power primarily determines what international steps to be taken to defend human rights. Today's states, however, have to learn to co-exist with the growing forces of international human rights laws and norms, practices and pressures.

8.6 SOME USEFUL BOOKS


The Universal Declaration of Human Rights: Theory and Practice


Robert Jackson, ed, Political Studies, Special Issue on Sovereignty at the Millennium, Vol1.47, No. 3.
Check Your Progress 1
1. True
2. True
3. True

Check Your Progress 2
1. (a) True, (b) False. Filartiga vs. Pena case was an exception. (c) True and (d) True.
2. He would oppose the judgement on two grounds: Firstly, human rights are an internal matter of sovereign states. Secondly, custom is a vague and controversial source of international law.
3. i-b, ii-a and iii-c

Check Your Progress 3
1) Once again, it is state sovereignty that is an obstacle. Social forces in the US are unwilling to validate any external claims on the shape and content of the domestic governing process.
   * So, even while upholding international human rights in principle, the US has not ratified the Covenants.