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Human Rights: Institutional Arrangements

SEMESTER III

POLITICAL SCIENCE

BLOCK : 2

KRISHNA KANTA HANDIQUI STATE OPEN UNIVERSITY

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MASTER OF ARTS
POLITICAL SCIENCE
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INTRODUCTION TO BLOCK- 2

This is the second block of the third course titled “Human Rights : Institutional Arrangements” of the M.A. Third Semester Programme in Political Science. The block contains seven units- (Units 9- 15).

The ninth unit deals with the rights of the elderly persons. Issues like global and national initiatives for promoting and protecting Human Rights of Elderly Persons like United Nations Efforts on Old Age (Ageing), the Maintenance and Welfare of Parents and Senior Citizens Bill, 2007 etc. are discussed. Accordingly, the role of the NGOs in spreading and protecting human rights are discussed in the tenth unit. The significance of the Amnesty International and the Human Rights Watch in promoting and protecting Human Rights are also explained in this unit.

The eleventh unit deals with the awareness regarding Human Rights movements in India during pre and post-colonial period. In the twilfth unit, constitutional and legal framework of human rights in India are explained. Here, discussions are made on fundamental rights, role of the Parliament and the Indian Judiciary in protecting Human Rights, and National Human Rights Commission.

The thirteenth unit highlights the rights of women in India. Various constitutional provisions including issues and challenges of protecting women's rights are discussed in this unit. Child labour has posed as a threat to the rights of the children and hence the fourteenth unit focusses on the issue of the rights of children in India. The fifteenth unit deals with the aspects of conflict and Human Rights violation in India. It also explains about the violation of Human Rights in conflict situation and the role of State and non-State agencies.

While going through the units of the block, you will find that the units are further divided into certain sections and sub-sections, wherever necessary, for your better understanding. Besides, in order to give you additional information on certain relevant topics, you will find a category called "LET US KNOW" after the sections in each unit. Another category that has been included at the end of each section of a particular unit is "CHECK YOUR PROGRESS". The purpose of this category is to help you asses yourself as to how thoroughly you have understood a particular section. You may then match your answers with "ANSWERS TO CHECK YOUR PROGRESS" given at the end of each unit. The section "FURTHER READING" in each unit contains the names of a few books which you might want to consult if you are interested in learning more elaborately about the concepts discussed in a particular unit. Furthermore, the category called "POSSIBLE QUESTIONS" is intended to give you a hint of the type of questions you are likely to get in the examination.

UNIT 9: RIGHTS OF ELDERLY PERSONS

UNIT STRUCTURE

9.1 Learning Objectives

9.2 Introduction

9.3 Elderly Population in the World

9.4 Elderly Population in India

9.5 Problems of the Elderly People

9.6 Elder Abuse

9.7 United Nations Efforts on Old Age (Ageing)

- 9.7.1. United Nation's Principles for Older Persons 1991
- 9.7.2. The Madrid International Plan of Action on Ageing
- 9.7.3. Human Rights of the Elderly

9.8 Efforts at The National Level- Indian perspective

9.9 Protection of Rights of the Elderly

- 9.9.1. Hindu Adoption and Maintenance Act
- 9.9.2. Muslim Law
- 9.9.3. Criminal Procedure Code
- 9.9.4 The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007
- 9.9.5 PRANAM Bill, State Government

9.10 Let Us Sum Up

9.11 Further Reading

9.12 Answers to Check your Progress

9.13 Possible Questions

9.1 LEARNING OBJECTIVES

After reading this unit, you will be able to-

- identify the scenario of elderly population in the world
- explain the scenario of elderly population in India
- analyse the problems associated with elderly population
- describe the rights of elderly persons

- discuss the efforts of the UN in promoting and protecting the rights of the elderly
- explain the legal protection for the elderly at National and International level

9.2 INTRODUCTION

Ageing is a natural process of growing old in the human cycle. Though biological, the process of growing old carries emotional, intellectual, social, and spiritual changes. In chronological expression when a person crosses 60 and above they are known as the aged. The aged population are also known as elderly population.

The category of elderly population is believed to be the most respected category of population in India. But with the emerging changes on socio-economic and psychological scenario, elderly people presently do not have the same respect which they enjoyed before. Globalisation has changed the landscape of society and families in India too and the victims of these rapid changes are the elderly people. The effects of globalisation, privatisation, urbanisation and increased competition in the economy along with the strengthening of the values like individualism, materialism and isolated identities at the cost of community and family values have led to rising tendency for nuclear families and immigration which is affecting the elderly in India in multifarious ways.

Elderly population are not a homogenous group of people and varies in terms of caste, class, religion, gender, personality and many more. In developing countries like India, there are more elderly person in rural areas than urban. The situation and the scenario of one elderly person is different from another elderly person. Therefore, it is difficult to address the associated problems of the elderly in one perspective. However, efforts are being made to tackle all the associated problems of the aged through various conventions and national initiatives.

9.3 ELDERLY POPULATION IN THE WORLD

The Ageing or the elderly population is increasing worldwide .The global population aged 60 years or above were numbered 962 million in 2017. The number of older persons is expected to be double by 2050, when it is projected to reach nearly 2.1 billion. In 2030, older persons are expected to outnumber children under age 10; in 2050, projections indicate that there will be more older persons aged 60 or above than adolescents and youth at ages 10-24. Globally, the number of persons aged 80 years or over is projected to increase more than threefold between 2017 2050, rising from 137 million to 425 million.

Two thirds of the world's older people live in the developing regions, where number of elderly population is growing faster than in the developed regions. In 2050, it is expected that nearly 8 in 10 of the world's older persons will be living in the developing regions.

9.4 ELDERLY POPULATION IN INDIA

The UN defines a country as "Ageing" or "Greying Nation" where the proportion of people over 60 reaches 7 percent to total population. By 2011, India has exceeded that proportion (8.0 percent) and is expected to reach 12.6 percent in 2025. According to Population Census 2011, there are nearly 104 million elderly persons in India; among them 53 million are females and 51 million are males.

In India, the life expectancy at birth has improved vastly over the last few decades, increasing from 36.2 years in 1950 to 67.5 years in 2015 and projected to rise 75.9 years by 2050.Life expectancy at age 60 has also increased dramatically, rising from about 12 years in 1950 to 18 years in 2015 and projected to rise further to more than 21 years by 2050. Average Indian life expectancy at age 80 has likewise increased significantly from about 5 years in 1950 to more than 7 years at present time. By the middle of this century, it is predicted to rise to 8.5 years.

Kerala has got the highest life expectancy at birth, followed by Maharashtra and Punjab. The life expectancy at birth in Kerala is 71.8 years and 77.8 years for males and females respectively.

9.5 PROBLEMS OF THE ELDERLY PEOPLE

The Elderly people are facing remarkable social, political and health challenges along with their increasing age. Among them, increasing health disorder is supreme and it affects the elderly in various ways.

Health Problem:

One notable feature of growing old is associated with deterioration of health. The prevalence of non-communicable diseases like cardio vascular diseases, cancer, chronic respiratory diseases, diabetics etc. increase with age. Prevalence of heart diseases among elderly population is also common and found to be much higher in urban areas than in rural parts. Most common disability among the aged persons was loco motor disability and visual disability as per Census 2011. Such health disorder adversely affect the life of the elderly. A number of mental health issues can also plague the elderly population. Depression is common among older people, stemming from life circumstances such as retirement, loss of loved ones and friends, isolation, and declining health. Untreated, depression can begin a cascade of physical health problems that could lead to failing health. Elderly people may also experience anxiety due to persistent worries about typical issues such as money, family, and work. This anxiety may interfere with their day-to-day functioning. Mental health issues may go undetected in an older person due to isolation. For this reason, it is important to check in regularly with an elderly person and monitor their responses to changes around them. The dependency of the aged due to health disorder has further deteriorated the status of the aged in socio-religious occasion.

The Social Problem:

Social disengagement, feeling unwanted, isolation can cause social problem to the aged. The breaking up of joint family pattern, migration of

the youth, decreasing fertility, increasing life expectancy ,increasing chronic diseases and other illness have worsen the situation further . The changing values and outlook towards life have increased the gap between the young and the old where traditional values no longer matches with the modern values. Many studies revealed that today's young generation people prefer living in nuclear families. In nuclear families, individual values are different than that of the parents and more emphasis is given on immediate families like wife, husband and children. S.C. Dube, in one of his studies showed that parents dominated the family till the middle age, they receded background once they fall in old age. Old age changes the position and status of the elderly from service provider to dependent. In India, the status of dependency varies with the economic situation of the elderly. The economic status of the elderly is related to the social importance in decision making and other social gatherings.

Psycho-Social Problems:

The old people face numerous psycho-social problems. Psycho-social problems are related to social disintegration. Old people suffer a lot when they are disintegrated from the society. Disintegration means when people are no longer active in social life. Social disintegration brings monotony and boredom along with psychological weakness and vulnerability. The old persons feel neglected and humiliated when societies do not look upon them with same degree of respect as expected. Loneliness or too much feeling of being unnecessary in turn brings depression and may lead to worsening of sickness. Elder abuse is one major thing which has created maximum psycho-social problems among the elderly population.

Economic Problem:

Economic disengagement at the age of retirement is counted as the reason for many of the problems of elderly people. In the pre industrialised Indian society, most of the elderly people use to remain economically independent till they lived. They had the ownership of land holding and other occupational establishment and participated in

productive activities according to their physical fitness. But, with the industrialised society and the increased demand of the service sector with modernisation, the elderly people has got no role after retirement. The environment of the present industrialised society is not conducive to the old people to get satisfaction of their physical and socio-psychological needs.

In India, the income securities like pension, the social insurance assistance, provident fund etc. are not applicable in all the services. Unorganised or private sector employees do not have these facilities or nearly negligible; therefore family care, along with other needs are difficult to bear in old age by the elderly. The feeling of insecurity and dependency varies from the old, depending on the economic status of the elderly. The pension receiving elderly with possession of wealth are found to be less worried for financial dependency. The old - age dependency ratio raised from 10.9% in 1961 to 14.2% in 2011 in India as a whole.



CHECK YOUR PROGRESS

Fill in the blanks

Q.1: The UN defines a country as "Ageing" or "Greying Nation" where the proportion of people over 60 reaches ..... to total population

Q.2: The global population aged 60 years or above are numbered ..... in 2017

Q.3: The old - age dependency ratio is ..... in 2011 for India.

9.6 ELDER ABUSE

The World Health Organization (WHO) defines elder abuse as "a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person." According to WHO, elder abuse can take various forms such as physical, psychological or emotional, sexual and

financial abuse. It can also be the result of intentional or unintentional neglect. Elder abuse occurs when a caretaker intentionally deprives an older person of care or harms the person in his or her charge. Caregivers may be family members, relatives, friends, health professionals, or employees of senior housing or nursing care.

Studies show that elderly people are often neglected in their own home and faced physical and mental abuse. Elder Abuse is not a commonly discussed issue and a person often refrains from talking about it. Over the past few years "Help Age India" has been conducting detailed surveys to understand this growing crime against India's elders, by getting the elder perspective, their understanding and experiences. Shockingly in 2014, half of India's elderly (50%) surveyed, reported experiencing abuse. Among them 77% lived with their families. The most common assumption that the son, would be the main caregiver in old age, was completely shattered. The son along with the daughter-in-law turned out to be the primary abusers. In some cases the daughters and sons-in-law are also found to be the abusers.

To combat such abuses, it is necessary to have rigorous policies which talks about preventing elder abuse. There are laws against misappropriate behaviour towards the elderly by any relatives or outsiders. Elder abuse is common in India. But, there are no systematic collection of statistics, crime records, journalistic reports, social welfare records and studies to provide evidence on existence of abuse, neglect and financial exploitation of elders. Mistreatment verbal abuse and denial of proper food, and medication are common forms of elder abuse in India. With nuclear family further getting reduced to single parent family, increasing number of old people have to head towards the Old Age Homes. In a still developing country like India, there is no guarantee that they are not experiencing severe abuse in Old Age Homes as well.

The elderly may be subjected to different types of abuses. Elder Abuse can be categorised as :

1) Physical abuse
2) Psychological or emotional abuse
3) Financial abuse and Exploitation
4) Sexual abuse

9.7 UNITED NATIONS EFFORTS ON OLD AGE (AGEING)

United Nations has initiated a worldwide action for the care of the elderly through a world assembly in Vienna. As a result ''An International Plan of Action on Ageing'' was adopted in 1982. This Plan of Action for Elderly is supposed to create awareness in the countries about the problem of ageing. It has guided the course of thinking and action on ageing over the past 20 years, as crucial policies and initiatives evolved after this.

Issues of human rights for older persons were taken up in 1991 in the formulation of the United Nations Principles for Older Persons which provided guidance in the areas of independence, participation, care, self-fulfilment and dignity.

9.7.1 United Nations' Principles for Older Persons, 1991

Bearing in mind the standards already set by the International Plan of Action on Ageing and the conventions, recommendations and resolutions of the International Labour Organization, the World Health Organization and other United Nations entities, the United Nations' Principles for older persons 1991 encourages Governments to incorporate the following principles into their national programmes whenever possible: The areas are described through the following points:

1. Independence

I. Older persons should have access to adequate food, water, shelter, clothing and health care through the provision of income, family and community support and self-help.

II. Older persons should have the opportunity to work or to have access to other income generating opportunities.

III. Older persons should be able to participate in determining when and at what pace withdrawal from the labour force takes place.

IV. Older persons should have access to appropriate educational and training programmes.

V. Older persons should be able to live in an environment that is safe and adaptable to personal preferences and changing capacities.

VI. Older persons should be able to reside at home for as long as possible.

2. Participation

I. Older persons should remain integrated in society, participate actively in the formulation and implementation of policies that directly affect their well-being and share their knowledge and skills with younger generations.

II. Older persons should be able to seek and develop opportunities for service to the community and to serve as volunteers in positions appropriate to their interests and capabilities.

III. Older persons should be able to form movements or associations of older persons.

3. Care

I. Older persons should benefit from family and community care and protection in accordance with society's system of cultural values.

II. Older persons should have access to health care to help them maintain or regain the optimum level of physical, mental and emotional well-being and to prevent or delay the onset of illness.

III. Older persons should have access to social and legal services to enhance their autonomy, protection and care.

IV. Older persons should be able to utilise appropriate levels of institutional care providing protection, rehabilitation and social and mental stimulation in a humane and secure environment.

V. Older persons should be able to enjoy human rights and fundamental freedom when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives.

4. Self-fulfilment

I. Older persons should be able to pursue opportunities for the full development of their potential.

II. Older persons should have access to the educational, cultural, spiritual and recreational resources of society.

5. Dignity

I. Older persons should be able to live in dignity with security and be free from exploitation and physical or mental abuse.

II. Older persons should be treated fairly regardless of age, gender, racial or ethnic background, disability or other status, and be valued independently of their economic contribution.

9.7.2 The Madrid International Plan of Action on Ageing (MIPAA)

The Madrid International Plan of Action on Ageing was adopted at the Second World Assembly on Ageing in April 2002 to respond to the opportunities and challenges of population ageing in the twenty-first century and to promote the development of a society for all ages. The Madrid Plan of Action focuses on three priority areas:

Older Persons and Development; Advancing Health and Well-Being into Old Age; and ensuring Enabling and Supportive Environments. The successful adjustment of societies to population ageing is at the core of the MIPAA. The success of this adjustment will be measured mainly in terms of improvement in the quality of life and well being of older people as well as in the introduction and future sustainability of various systems, formal and informal, that underpin well being throughout life.

9.7.3 Human Rights of the Elderly

Elderly Persons are not a homogenous group of people, therefore the challenges they face, the protection they need and enjoyment of human rights vary greatly.

International obligation to older persons are implicit in many conventions of human right treaties such as 'Economic, Social and Cultural rights', on 'Civil and Political rights' ; and Conventions like 'Elimination of all forms of Discrimination against Women' and 'The Rights of the Elderly Person with Disabilities'. But implicit references to older persons in binding international human rights instruments are insufficient.

A report was published in 2011 by UN secretary general to the general assembly to examine the human right challenges of elderly people. The report summarises based on the existing norms and standard in a series of International declarations and offer some of the illustrations to combat the gap of elderly people's rights.

The 'Report' identified several areas where works have to be done:-

I. Strengthening the international protection regime for the Human Rights of the Elderly persons.

II. Violation against elderly persons and women in particular

III. Financial exploitation

IV. Health

V. Long term care

VI. Participation in Policy making and Political life

VII. Work

Universal Declaration of Human Rights

According to Article 25 of Universal Declaration of Human Rights, everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his/her control.

Social marginalisation, loneliness, isolation, discrimination and negligence in old age lead to violation of human rights of elderly people. Human Rights of Elderly People can be seen as follows:

1. Right to life shall be protected by law.
2. Right not to be subjected to inhumane treatment : "No-one shall be subjected to torture or to inhuman or degrading treatment or punishment".
3. Right to liberty : "Everyone has the right to liberty and personal security.
4. Right to a fair hearing : "In the determination of his civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law".
5. Civil Rights and Obligations:-
   a) The right to respect at home within the family and in private life.
   b) The right to freedom of thought and conscience.
   c) The right to property -everyone is entitled to the peaceful enjoyment of his possessions.

d) The right not to be discriminated against age.

e) The right to education.



CHECK YOUR PROGRESS

Q.4: The Madrid Plan of Action focuses on three priority areas. What are these areas?

.....

.....

Q.5: When was the International Plan of Action on Ageing was adopted?

.....

.....

Q.6: Write the definition of Elder abuse given by WHO?

.....

.....

.....

Q.7: What are the civil rights and obligation of the Elderly persons?

.....

.....

.....

9.8 EFFORTS AT THE NATIONAL LEVEL : INDIAN PERSPECTIVE

To uphold the right to health, well-being and Independence of elderly people, Government of India have taken various initiatives to challenge various social, economic and health hazards of elderly people.

Article 41 of Directive Principles of State Policy

India's constitution accepts the concept of a welfare state and Article 41 of Directive Principles of State Policy lays down the duty of the state for effective provision of securing the right to work, education and public assistance in cases of employment, old age, sickness and disablement.

GOVERNMENTAL PROTECTIONS

i. National Policy for Older Persons

The Government of India approved the National Policy for Older Persons on January 13, 1999 in order to accelerate welfare measures and empower the elderly in ways beneficial for them. The National Policy on Older Persons promote health safety, social security and well-being of elderly persons in India. The Policy supports voluntary and non-governmental organisations to supplement the care and protection provided by the family members to vulnerable elderly. The policy support in areas like financial and food security ,health care and nutrition, shelter, education, welfare, protection of life and property for the well-being of the elderly people in the country.

The primary objectives of the policy are:

a. Ensure well-being of the elderly, so that they do not become marginalised ,unprotected, or ignored.

b. Adopt mechanism for improving inter-generational ties.

c. Encourage individuals to make adequate provisions for them as well as their spouse.

d. Provide protection on grounds like financial security, shelter, health care, and protection against abuse and exploitation.

e. Enable and support voluntary organisation to supplement the care provided by the family and recognising the need of expansion of social and community services with universal accessibilities.

f. Provide adequate health care facilities to the Elderly.

g. Provide care and protection to the vulnerable elderly on equitable share in the benefits of development.

h. Promote research and training facilities to train care givers and organisations at the service of the elderly.

i. Create awareness regarding elderly persons to help them lead a productive and independent life.

ii. National Council for Older Persons (NCOP)

A National Council for Older Persons (NCOP) was constituted in 1999, under the chairmanship of the Ministry of Social Justice and Empowerment to operationalise the National Policy for Older Persons. The Social Defence Division of the Social Justice and Empowerment Ministry mainly caters to the requirement of Senior Citizens, besides victims of alcoholism and substance abuse, transgender persons and beggars / destitute. The Ministry develops and implements Acts, Policies and Programmes for welfare of Senior Citizens in collaboration with State Governments/ Union Territory Administrations to ensure that Senior Citizens may lead a secured, dignified and productive life. The Ministry has set up the National Council for Older Persons in the process to make life easier for older persons. The NCOP is the highest body to advise the government in the formulation and implementation of policy and programmes for the Elderly.

The basic objectives of the Council are to :

a. advice the government on policies and programmes for older persons;

b. suggest steps to make old age productive and interesting;

c. suggest measure to enhance quality of intergenerational bonding;

d. work as a nodal point, at the national level for redressing the grievances of elderly people and represent the collective opinion of the Elderly persons to the government;

e. provide feedback on various policies for elderly;

iii. Integrated Programme for Older Persons (IPOP)

An Integrated Programme for Older Persons (IPOP) is being implemented since 1992 with the objectives of life of Elderly people by providing food, shelter and medical care. Under this scheme financial assistance up to 90% of the project cost is provided to

non- governmental organisations (NGOs) for running and maintenance of Old Age Homes, Day Care Centres, Mobile Medicare Units.

Innovative projects that have been added by IPOP are:

a. Maintenance of respite care homes and continuous care homes.

b. Helpline and counselling centres for Elderly Persons.

c. Running of day care centres for patients of Alzheimer diseases, Dementia, and Physio- therapy clinics for elderly people.

The eligibility criteria for beneficiaries of IPOP schemes are

a. Old Age Homes- for destitute elderly persons.

b. Respite care and continuous nursing care homes- for elderly person who are seriously ill and require continuous nursing care.

c. Mobile Medicare unit-for older person living in slums, rural and inaccessible areas.

iv. The government policy encourages departments a prompt settlement of pension, provident fund (PF), gratuity, etc. in order to save the superannuated persons from any hardships. It also encourages to make the taxation policies elder sensitive. .

v. According to Sec.88-B, 88-D and 88-DDB of Income Tax Act there are discount in tax for the elderly persons.

vi. Life Insurance Corporation of India (LIC) has also been providing several schemes for the benefit of aged persons, i.e., Jeevan Dhara Yojana, Jeevan Akshay Yojana, Senior Citizen Unit Yojana, and Medical Insurance Yojana.

vii. Ministry of Rural Development through a flagship programme called National Social Assistance Programme (NSAP) provides a monthly pension to every elderly person belonging to below poverty line.

viii. Ministry of Railway provide separate ticket counter for elderly people at various passenger reservation system, provisions of lower berth quota, discounts and concession on mails and expresses.

ix. Ministry of Health and Family Welfare has provision of separate ques for elderly people in government hospitals, and geriatric clinic and wards in several government hospitals.

9.9 PROTECTION OF RIGHTS FOR THE ELDERLY

Indian government have begun to address the need of special protection to older person, and therefore has initiated various acts and bills against discrimination and violation of human rights of the elderly. Although such acts and bills are in place, many of the cases of violation and exploitation go unreported. Unstructured report from non -profit organisations or any other helplines are found but willingness to fight for their own right is limited to one or two elderly only.

9.9.1 Hindu Adoption and Maintenance Act

The statutory provision for maintenance of parents under Hindu personal law is contained in Sec 20 of the Hindu Adoption and Maintenance Act, 1956. This Act is the first personal law statute in India, which imposes an obligation on the children to maintain their parents. As is evident from the wording of the section, the obligation to maintain parents is not confined to sons only, and daughters also have an equal duty towards parents. It is important to note that only those parents who are financially unable to maintain themselves from any source, are entitled to seek maintenance under this Act.

9.9.2 Muslim Law

Children have a duty to maintain their aged parents even under the Muslim law. According to Mullah: (a) Children in normal circumstances are bound to maintain their poor parents, although the latter may be able to earn something for themselves. (b) A son though in strained circumstances is bound to maintain his mother, if the mother is poor, though she may not be infirm. (c) A son, who though poor, is earning something, is bound to support his father

who earns nothing. According to Tyabji, parents and grandparents in indigent circumstances are entitled, under Hanafi law, to maintenance, from their children and grandchildren who have the means, even if they are able to earn their livelihood. Both sons and daughters have a duty to maintain their parents under the Muslim law. The obligation, however, is dependent on their having the means to do so.

9.9.3 Criminal Procedure Code

Under **Section 125 of Criminal Procedure Code**, the elder parents can claim maintenance from their children.

The **Criminal Procedure Code** is a secular law which is applicable to the entire region. This is not for a particular section and is applicable to every citizen of the country. To claim maintenance under this law, it is necessary to prove that the parents are neglected and do not have the sufficient means of income to maintain themselves.

Section 125 of the Criminal Procedure Code makes it obligatory for sons and daughters, including a married daughter, to maintain their parents.

9.9.4 The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007

To alleviate the pains of senior citizens, Government passed the Maintenance and Welfare of Parents and Senior Citizens Act, (2007) which made it a legal obligation for children to provide maintenance to their elderly parents. It provided for a Maintenance tribunal to provide speedy relief to elderly persons. The act was amended in 2018 to broaden responsibility beyond biological children and stringent punishment for negligent children. The Act made State Government responsible for ensuring that all government run hospitals have separate queues and beds for senior citizens and

establish old age homes for senior citizens in each district, which will be partly funded by the centre.

The Maintenance and Welfare of Parents and Senior Citizen Act, 2007 provide more effective provisions for the maintenance and welfare of parents and senior citizen guaranteed and recognised under the constitution and for matters connected therewith or incidental.

A senior citizen who is unable to maintain himself from his own earning or out of property owned by him should be maintained by the children having sufficient means or by relatives, if he/she inherits the property of such senior citizen. If more than one relative is entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit his/her property. The senior citizen may apply in the tribunal which was set up for the purpose. The tribunal shall have all powers of a civil court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed, and the tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. The tribunal shall be presided over by an officer not below the rank of sub-divisional officer of a state. If children or relatives, neglect or refuse to maintain a senior citizen who is unable to maintain oneself, the tribunal after the enquiry satisfied with such neglect or refusal, order such relatives to make a monthly allowance. The maximum allowance shall be prescribed by the state government which shall not exceed ten thousand rupees per month.

9.9.5 PRANAM Bill, State Government

The Parents Responsibility and Norms for Accountability and Monitoring (PRANAM) Bill launched in Assam in 2017 was stated to be the first of its kind bill in the country, with an effort to protect

elderly parents of state government employees in their times of need. The bill ensures that no state government employee ignore their elderly parents and unmarried differently-abled siblings.

Key Features:

- The PRANAM Bill makes it mandatory for the state government employees to look after their parents and unmarried differently-abled siblings who do not have their own sources of income.
- Under the Bill's provisions, if the PRANAM Commission gets a complaint that parents of a state government employee are being ignored, then 10 or 15 per cent of the employee's salary will be deducted by the government and paid to the parents or differently-abled siblings.
- The employees of private companies and the central government working in the state would also be covered by the Bill at a later stage.



CHECK YOUR PROGRESS

Write True or False

Q.8: The PRANAM Bill makes it mandatory for the Central Government employees to look after their parents.

.....

Q.9: Under Section 125 of Criminal Procedure Code, the elder parents can claim maintenance from their children.

.....

Q.10: The NCOP is the highest body to advise the government in the formulation and implementation of Policy and Programmes for the Elderly.

.....

Q.11: Under the Maintenance and Welfare of Parents and Senior Citizen Act, 2007, the maximum allowance given to the parents should be more than 10,000/ per month.

.....



LET US KNOW

Ageism: Ageing is a natural process, when this natural process is used for discrimination for one individual over other on the basis of age it is called Ageism. Ageism is the stereotyping of, prejudice against, or discrimination against a person because of their age. Dr. Robert Butler coined the term "Ageism" in 1968, noting that ageism exists in all cultures. Ageist attitudes and biases based on stereotypes reduce elderly people to inferior or limited positions.



9.10 LET US SUM UP

- Ageing is a natural process of growing old in the human cycle.
- Globalisation has changed the landscape of society and families in India and the victims of this rapid changes are elderly people.
- Individualism, materialism and isolated identities at the cost of community and family values have led to rising tendency for nuclear families and immigration which is affecting the elderly in India in multifarious ways.
- Elderly population are a homogenous group of people who varies in terms of caste, class, religion, gender, personality and so on.
- The global population aged 60 years or above are numbered 962 million in 2017. The number of older persons is expected to be double by 2050.
- Two thirds of the world's older persons live in the developing regions where number of elderly population are growing faster than in the developed regions.
- According to Population Census 2011, there are nearly 104 million elderly persons (aged 60 years or above) in India; among them 53 million are females and 51 million are males.
- By 2011, India has exceeded that proportion (8.0 percent) and is expected to reach 12.6 percent in 2025.

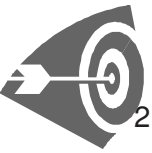
- Elderly persons are often neglected in their own home and they face physical and mental abuse.
- Elder abuse occurs when a caretaker intentionally deprives an older person of care or harms the person in his or her charge.
- Elder Abuse can be categorised as a) Physical abuse b) Psychological or emotional abuse c) Financial abuse and exploitation
- The World Assembly proposed a Plan of Action for Elderly to create awareness in the countries about the problem of the ageing.
- Accordingly the World Health Organization and other United Nations entities, encourages Governments to incorporate the five principles into their national programmes whenever possible. The five principles are Independence, Participation, Care, Self-fulfilment and Dignity.
- The Madrid International Plan of Action on Ageing was adopted at the Second World Assembly on Ageing in April, 2002.
- The Madrid Plan of Action focuses on three priority areas: Older Persons and Development; Advancing Health and Well-Being into Old Age; and ensuring Enabling and Supportive Environments.
- International obligation to older persons are implicit in many conventions of human right treaties.
- Social marginalisation, loneliness, isolation, discrimination and negligence in old age lead to violation of human rights of elderly people.
- The Government of India approved the National Policy for Older Persons on January 13, 1999 in order to accelerate welfare measures and empowering the elderly in ways beneficial for them.
- A national council for older persons (NCOP) was constituted in 1999 under the chairmanship of the Ministry of Social justice and empowerment to operationalise the National Policy for Older Persons.
- An Integrated Programme for Older Persons (IPOP) is being implemented since 1992 with the objectives of life of Elderly people by providing food, shelter and medical care.
- The statutory provision for maintenance of parents under Hindu personal law which imposes an obligation on the children to maintain their parents.

- Children have a duty to maintain their aged parents even under the Muslim law.
- Under Section 125 of Criminal Procedure Code, the elder parents can claim maintenance from their children.
- To alleviate the pains of senior citizens, Government passed the Maintenance and Welfare of Parents and Senior Citizens Act, (2007) which made it a legal obligation for children to provide maintenance to their elderly parents.
- The Parents Responsibility and Norms for Accountability and Monitoring (PRANAM) Bill, was launched in Assam in 2017 to protect elderly parents of state government employees in their times of need.



9.11 FURTHER READING

1. Latha,K.S. (2011). *"Elder Abuse and Neglect: A Review',in Ageism and Elder Abuse*, Lary McDonald and K.L Sharma (edt.) Jaipur, Rawat, Publication.



2. Strauss Peter J. and Nancy M. Laderman (1996). *The Elder law Handbook: A Legal and Financial survival guide for caregivers and services*, Facts on File.
3. Pati, R.N. and B. Jena (1989). *Aging in India*, New Delhi, Ashish Publishing.

9.12 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: 7 percent.

Ans. to Q. No. 2: 962 million.

Ans. to Q. No. 3: 14.2%.

Ans. to Q. No. 4: Older Persons and Development; Advancing Health and Well-Being into Old Age; and ensuring Enabling and Supportive Environments.

Ans. to Q. No. 5: in 1982 .

Ans. to Q. No. 6: Elder abuse can be defined by WHO as 'A single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person.'

Ans. to Q. No. 7:

a) The right to respect at home within the family and in Private life.

b) The right to freedom of thought and conscience.

c) The right to property -everyone is entitled to the peaceful. enjoyment of his possessions.

d) The right not to be discriminated against age.

e) The right to education.

Ans. to Q. No. 8: False. The bill covers state government employees only.

Ans. to Q. No. 9: True.

Ans. to Q. No. 10: True.

Ans. to Q. No. 11: False. The maximum amount should not exceed 10000/ per month.



9.13 POSSIBLE QUESTIONS

A) Very Short Questions

Q. 1: When was the first worldwide initiative for old age initiated?

Q. 2: In which year Government of India approved the National Policy for Older Persons?

B) Short Questions (Answer each question in about 150 words)

Q. 1: What are the three priority areas of Madrid International Plan of Action?

Q. 2: What are the key features of PRANAM Bill?

C) Long Questions (Answer each question in about 300-500 words)

Q. 1: Discuss the problems of Elderly Population?

Q. 2: What do you understand by Elder Abuse? What are the types of Elder Abuse?

*** ***** ***

UNIT 10: HUMAN RIGHTS AND NGOs

UNIT STRUCTURE

10.1 Learning Objectives

10.2 Introduction

10.3 Concept of Human Rights

10.4 Role of NGOs in spreading Human Rights awareness and Safeguarding Human Rights

10.5 Role of Amnesty International in Promoting and Protecting Human Rights

10.6 Role of Human Rights Watch in Promoting and Protecting Human Rights

10.7 Let Us Sum Up

10.8 Further Reading

10.9 Answers to Check Your Progress

10.10 Possible Questions

10.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- explain the role NGOs in spreading human rights awareness
- describe the role of Amnesty International in promoting and protecting human rights
- discuss the role of Human Rights Watch in safeguarding human rights.

10.2 INTRODUCTION

All human beings have the potential for development. The role of NGOs becomes significant in providing opportunities to each and every category of people. NGOs like Amnesty International, Human Rights Watch etc. play a very crucial role in upbringing and safeguarding the life of the individual. Different types of NGOs prevail for different purposes. For instance, INGOs (International NGOs), BINGOs (business oriented

international NGOs), RINGOs (religious international NGOs), ENGOs (environmental NGOs), GONGOs (government-operated NGOs), QUANGOs (quasi-non-governmental organizations) etc. are of worth mentioning here. Under the banner of United Nations Organization, lots of activities are going on in order to promote the interest of the poor. Human rights NGOs have been recognised by the UN Charter under Article 71 which provides that “The Economic and Social Council may make suitable arrangements for consultation with non-governmental organisations which are concerned with matters within their competence. Such arrangements may be made with international organizations and where appropriate, with national organizations after consultation with the Members concerned of the United Nations”. With the association of UNO, different NGOs may play an important role in mobilising public opinion and also in the process of deliberation and policy formulation. In this unit, discussions will be made on the role of NGOs in the promotion and protection of human rights.

10.3 CONCEPT OF HUMAN RIGHTS

Human rights are those rights which have been conferred by the states on the individuals through different ways. For instance, fundamental rights incorporated in the constitution are also part of human rights. Every individual can avail these human rights irrespective of their caste, creed, religion, sex and nationality. These rights are inherent in each and every human being. By considering the significance of human rights for human beings, these rights can be considered in different ways such as-fundamental rights, inherent rights, natural rights, basic rights, etc. Human rights as a whole embraces civil rights, civil liberties and also economic, cultural and social rights for which it is very difficult to give a precise definition of the term 'human rights'. These are the rights which all people have by virtue of their being as human. Former Chief Justice of India, J.S. Verma had rightly stated that human dignity is the quintessence of human rights. For all-round development of the personality of the individuals in the society, human rights must be necessarily protected and be made available to every individual.

Human rights can also be described as those rights which are natural and inherent for the life and happiness of every individual. For the maintenance of human dignity, these rights are considered to be significant and indispensable as well. Human rights are inherent in our nature and it is not possible for the human being to sustain without these rights. The concept of human rights is as old as the human race. Human rights are those essential rights which contribute largely to the balanced growth and development of human beings. These rights are independent, inalienable, inviolable and universal.

10.4 ROLE OF NGOs IN SPREADING HUMAN RIGHTS AWARENESS AND SAFEGUARDING HUMAN RIGHTS

Different NGOs, both at the global as well as national and local level, contribute substantially in different ways in the promotion and protection of human rights. Their activities are more vibrant especially in developing and underdeveloped countries. The Human Rights NGOs performs different functions in different parts of the world for spreading human rights awareness and safeguarding human rights. By organising seminars, conferences and meetings on different aspects of human rights, NGOs can play an important role in mobilising public opinion. Different NGOs can take initiative by inviting personalities of different disciplines, for instance- administrative officers, jailors, police officers, judges, advocates, journalists etc. who can deliver speech regarding the significance of human rights and freedoms. NGOs must create an environment of discussion so that the issues continue to be re-emphasised in terms of protection of human rights. NGOs may play a significant role by providing information to the society regarding all sorts of human rights violation cases, for instance- conditions of jails, treatment meted to the prisoners, etc.

In order to develop dialogue with government and other international bodies regarding protection of human rights, NGOs have a great role to play. They can also extend pressure on international bodies. NGOs may file writ petitions through Public Interest Litigation (PIL) for those categories of people who are denied their basic human rights. In the context of gross violations of

internationally recognised human rights, NGO's may make a communication to the Commission on Human Rights. By educating people about the extent of their rights and providing information about the violation of human rights, NGO's can help the needy sections of the society. In this context, Human Rights Education is an emerging paradigm through which greater awareness on the part of the common people regarding their rights and freedom can be attained. Besides performing the role of a pressure group, NGO's can also play a pivotal role in terms of developing awareness among the people for human rights education. In most of the countries across the world, there are gross violation of human rights norms due to the lack of awareness for Human Rights Education. NGOs can play the role of a civil society by highlighting certain areas where human being can easily avail certain facilities with the help of which human dignity can be maintained. By creating awareness among the people, NGOs not only play the role of a watchdog of democratic institutions but also encourage the government to promote human rights and help in thinking in terms of good governance.



CHECK YOUR PROGRESS

Q.1: Define human rights.

.....

.....

Q.2: Which Article of the UN Charter provides recognition to the Human Rights NGOs?

.....

Q.3: Write briefly about the role of NGOs in creating human rights awareness.

.....

.....

10.5 ROLE OF AMNESTY INTERNATIONAL IN PROMOTING AND PROTECTING HUMAN RIGHTS

Amnesty International plays an important role in the field of promotion and protection of human rights. This great institution was founded in the

year 1961 by British Lawyer Peter Benenson for the cause of safeguarding human rights and security. Amnesty International is independent of any governmental intervention, political ideology, economic interest or religious issues. In protecting human rights, it always lays concern on the impartial implementation of principles. It basically emphasises on the internationally recognised human rights. It has varied support-base in the global context. All the members of Amnesty International from different backgrounds stand together for the noble cause of human rights so that everyone can enjoy the fruits of human rights. Amnesty International has always been working for creating a world free from any kinds of violation of human rights and realisation of all those rights which are enshrined in the Universal Declaration of Human Rights and other international conventions.

For the protection of human rights of the people living in different parts of the world, Amnesty International follows different methods of their own. By developing dialogues both at the governmental and non-governmental level, it seeks to disclose human rights issues accurately, quickly and persistently. In investigating the individual cases impartially, it tries to find out the root causes of violation of human rights by rigorous researching and re-examining the existing facts, data and situation. It urges all the national governments of all the member countries of UNO to observe the rule of law and to ratify and implement human rights standards. By encouraging inter-governmental organizations, individuals and all other organs of the greater society, Amnesty International tries to create an environment where people are willing to support and respect human rights norms. It operates through different bodies, such as International Council, International Executive Committee, Sections, Structures, International networks International Secretariat, etc. Among all the bodies, International Council is the supreme legal body for the conduct of all the affairs of Amnesty International. International Council consists of the members of the International Executive Committee and of the representatives of Sections. It performs different functions for the protection and promotion of human rights under the banner of Amnesty International. The primary functions of this council are- (1) to focus on strategy; (2) to set Amnesty International's vision, mission and

core values; (3) to determine Amnesty International's integrated strategic plan including its financial strategy; (4) to establish systems and bodies of governance and delegation for the movement, to elect members to those bodies, to hold those bodies and their members accountable; (5) to evaluate the movement's performance against its agreed strategies and plans, and (6) to hold section, structures and other bodies accountable.

Besides International Council, the International Executive Committee also plays a significant role by providing leadership for the whole Amnesty International worldwide. The other important functions of International Executive Committee are- (1) to take international decisions on behalf of Amnesty International; (2) to ensure that there is sound financial policy for Amnesty International and that the financial policy is consistently implemented across the international organization; (3) to ensure implementation of the Integrated Strategy Plan; (4) to ensure compliance with the statute; (5) to ensure human resource development; (6) to hold Sections, Structures and other bodies of Amnesty International accountable for their functioning by presenting reports to the International Council.

Sections are also an important part of Amnesty International. A Section of Amnesty International may be established in any parts of the world with the consent of the International Executive Committee. The functions of Section are- (a) demonstrate its ability to organise and maintain basic Amnesty International activities; (b) submit its Statute to the International Executive Committee for approval; (c) pay such annual fee as may be determined by the International Council, and (d) be registered as such with the Secretariat on the decision of the International Executive Committee.

On the basis of its structural functionality, it can be considered as one of the largest international organization working in the field of human rights. Amnesty International always works for the proper functioning and realization of all those rights and principles that are enshrined in the Universal Declaration of Human Rights and other international standards. In 1977, Amnesty International was awarded the Nobel Peace Prize for its continuous effort in fulfilling its vision for searching a world in which every person enjoys all the human rights incorporated in the Universal Declaration

of Human Rights. Amnesty International always advocates for the protection of rights of the human being worldwide. There are certain specific areas where Amnesty International provides utmost importance. These are

- Protection of women;
- Protection of children;
- Ending of the torture and execution (barring any illegal torture people);
- Protection of rights of prisoners (freedom of conscience and freedom of expression and the release of all prisoners of conscience);
- Protection of refugees;
- Abolishing the death penalty, torture and other cruel treatment;
- Fair (fair and fast) trials;
- Overcoming the phenomenon of discrimination on any grounds, such as- gender, race, religion, language, political opinion, national or social origin, and others;
- Regulation of the global arms trade.

As an international NGO in the field of human rights, Amnesty International acts as a mass movement for the protection of human rights by ensuring international solidarity, global security and implementing secular principles to be practiced by the greater masses in the global context.

10.6 ROLE OF HUMAN RIGHTS WATCH IN PROMOTING AND PROTECTING HUMAN RIGHTS

As an international NGO, Human Rights Watch plays a very significant role in promoting and protecting human rights across the world. It has started functioning from 1978, based on headquarters in New York City in the name of Helsinki Watch. In 1997, Human Rights Watch got Nobel Peace Prize as a founding member of the International Campaign to Ban Landmines. This non-governmental organization is very much keen to work by following the principles of Universal Declaration of Human Rights. Under the parameter of Human Rights Watch, the researcher members of this NGO conduct fact-finding investigations in human rights abuses in all regions of the world. By conducting different research activities in different parts of the world, it basically tries to draw international attention to human

rights abuses and put pressure on governments and international organizations in eradicating human rights violation.

Human Rights Watch has done a serious work on Article 6 of the International Covenant on Civil and Political Rights. By highlighting six specific areas, it appeals to the Human Rights Committee of UDHR to work more on human rights issues. These six areas are-

- Right to life and right to access abortion
- Right to life and use and development of particular weapons
- Right to life and death penalty
- Right to life and environmental degradation
- Right to life and gun violence
- Right to life of those in institutions.

On the basis of its investigations, Human Rights Watch publishes its reports every year in book format. In the recent report entitled "Everyone Must Confess" published by Human Rights Watch on 'Abuses against Children Suspected of ISIS Affiliation in Iraq', it is stated that 'Iraqi and KRG authorities often arrest and prosecute children with any perceived connection to ISIS, use torture to coerce confessions, and sentence them to prison in hasty and unfair trials. International law recognizes children recruited by armed groups primarily as victims who should be rehabilitated and reintegrated into society'. One of the finest reports submitted by Human Rights Watch was the Report on Iraq in 2004. It reported in 2004 that Iraqi security forces are systematically torturing detainees by beating them with hosepipes and cables and passing electric shock to their genitals. After the publication of this report, a worldwide consensus was developed to work together and wholeheartedly for the cause of human rights. The World Report 2015 published by Human Rights Watch basically stressed on the issue of ISIS activities which spread in the countries like Iraq, Syria, Lebanon, Jordan and Libya. This 2015 report also highlighted the issue of Boko Haram atrocities in Nigeria.

Sometimes, Human Rights Watch has been criticised for perceived bias by the national governments. But it continuously works for the betterment of human mankind as a whole. Extensive surveys conducted

by Human Rights Watch in the field of human rights help in identifying the areas and cases of human rights abuses and thereby search for the solution of the same. In some occasions it also helps other non-governmental organizations who are working in the field of human rights. For instance, the relationship between Amnesty International and Human Rights Watch is a notable one. It also offers certain recommendations to the national governments that are determined to establish democracy and human rights norms. Human Rights Watch played a significant role in the process of democratic promotion in Nepal. During the time of the then King Gyanendra in Nepal, Human Rights Watch stated that international community should help in ending arbitrary detention of political workers and journalists in the Himalayan Kingdom. Not only in the context of Nepal, but also in case of different issues of different countries, Human Rights Watch has been continuously working since the time of its inception.

So, from the above analysis, we may say that the international NGOs like Amnesty International and Human Rights Watch has been working in the field of human rights to uplift the condition of the common people. These types of NGOs have a vital role in the promotion and protection of human rights especially in the developing countries. So international NGOs like Amnesty International, Human Rights Watch, etc. sometimes work together with certain other Human Rights NGOs basically falls in the developing countries. NGO's activity is very much essential for continued efforts of protecting human rights. The Vienna Conference of 1993 stated that the States are required to take the assistance of non-governmental organizations to promote an increased awareness of human rights and mutual tolerance. This conference also put emphasis upon the creation of favourable condition by the state mechanism to ensure the full and effective enjoyment of human rights. Apart from different Human Rights NGOs working in different regions of the world, Amnesty International and Human Rights Watch have remained active in the global context in serving for the cause of human rights norms.



CHECK YOUR PROGRESS

Q.4: Which is the supreme body of the Amnesty International?

……

Q.5: Mention any two functions of the International Council.

……

……

Q.6: Mention any two functions of the International Executive Committee.

……

……

Q.7: In which year did the Human Rights Watch get the Nobel Peace Prize?

……



10.7 LET US SUM UP

- Human rights are those essential rights which contribute largely to the balanced growth and development of human beings. These rights are independent, inalienable, inviolable and universal.
- Contribution of NGOs towards promotion and protection of human rights is very significant. The Human Rights NGOs perform different functions in different parts of the world for spreading human rights awareness and safeguarding human rights.
- By organizing seminars, conferences and meetings on different aspects of human rights, NGOs can play an important role in mobilising public opinion. NGOs must create an environment of discussion so that the issues continue to be re-emphasised in terms of protection of human rights.
- NGOs may play a significant role by providing information to the society regarding all sorts of human rights violation cases, for instance-conditions of jails, treatment meted to prisoners etc.

- Besides performing the role of a pressure group, NGO's can also play a pivotal role in terms of developing awareness among the people for human rights education. NGOs can play the role of a civil society by highlighting certain areas where human being can easily avail certain facilities with the help of which human dignity can be maintained.
- Role of Amnesty International and Human Rights Watch in promoting and protecting human rights worldwide is very significant.



10.8 FURTHER READING

1. Agarwal, H.O. (2006). *Human Rights*. Allahabad: Central Law Publications.
2. Stephen, R.M. (2002). *Human Rights: Concepts and Perspectives*. New Delhi: Concept Publishing Company.
3. Syed, M.H. (2003). *Human Rights: The New Era*. New Delhi: Kilaso Books.
4. Yasin, Adil-ul & Upadhayay Archana (2004). *Human Rights*. New Delhi: Akansha Publishing House.

10.9 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: Human rights are those essential rights which contribute largely to the balanced growth and development of human beings. These rights are independent, inalienable, inviolable and universal.

Ans. to Q. No. 2: Article 71.

Ans. to Q. No. 3: The Human Rights NGOs performs different functions in different parts of the world for spreading Human Rights awareness and safeguarding Human Rights. By organizing seminars, conferences and meetings on different aspects of human rights, NGOs can play an important role in mobilising public opinion. Different NGOs can take initiative by inviting personalities of different discipline, for instance- Administrative officers, jailors, police officers, judges, advocates, journalist, etc who can deliver speech regarding the significance of human rights and freedom. NGOs must create

an environment of discussion so that the issues continue to be re-emphasized in terms of protection of human rights. NGOs may play a significant role by providing information to the society regarding all sorts human rights violations cases, for instance- conditions of jails, treatment meted to prisoners, etc. By educating people about the extent of their rights and providing information about the violation of human rights, NGOs can help the needy sections of the society.

Ans. to Q. No. 4: International Council.

Ans. to Q. No. 5: (1) to focus on strategy; (2) to set Amnesty International's vision, mission and core values.

Ans. to Q. No. 6: (1) to take international decisions on behalf of Amnesty International; (2) to ensure that there is sound financial policy for Amnesty International and that the financial policy is consistently implemented across the international organization.

Ans. to Q. No. 7: 1997.



10.10 POSSIBLE QUESTIONS

A) Very Short Questions

Q. 1: State the meaning of human rights.

Q. 2: In which year was the Amnesty International founded?

Q. 3: Write the full form of UDHR.

Q. 4: In which year the Amnesty International got the Nobel Peace Prize?

B) Short Questions (Answer each question in about 150 words)

Q. 1: Write a note on the role of Human Rights Watch in promoting and protecting human rights.

Q. 2: Explain the role of NGOs in promoting human rights.

Q. 3: Write briefly about the functions of Section of Amnesty International.

C) Long Questions (Answer each question in about 300-500 words)

Q. 1: Discuss the role of the Amnesty International in protecting human rights.

Q. 2: Examine the role of the Human Right Watch in protecting human rights.

Q. 3: Explain the role of NGOs in promotion and protection of human rights.

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UNIT 11: HUMAN RIGHTS MOVEMENT IN INDIA

UNIT STRUCTURE

11.1 Learning Objectives

11.2 Introduction

11.3 Universal Declaration of Human Rights

11.4 Awareness Regarding Human Rights among Indians during Colonial Period.

11.5 Human Rights Movement in India in Post-Colonial Period.

11.6 Let Us Sum Up

11.7 Further Reading

11.8 Answers to Check Your Progress

11.9 Possible Questions

11.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- explain the concept and meaning of the term Human Rights
- describe the awareness regarding human rights among Indians during colonial period
- discuss the human rights movement in India in post-colonial period
- analyse the success of human rights movements ongoing in India

11.2 INTRODUCTION

Human rights are rights inherent to all human beings, regardless of gender, nationality, place of residency, sex, ethnicity, religion, colour or any other categorisation. Thus, human rights are non-discriminatory, that is all human beings are entitled to it and cannot be excluded from it. Of course, while all human beings are entitled to human rights, not all human beings experience them equally throughout the world. Many governments and individuals ignore human rights and grossly exploit other human beings.

There are a variety of human rights, including:

- Civil rights (such as the right to life, liberty and security),
- Political rights (like right to the protection of the law and equality before the law),
- Economic rights (including right to work, to own property and to receive equal pay),
- Social rights (like right to education and consenting marriages),
- Cultural rights (including the right to freely participate in their cultural community), and
- Collective rights (like the right to self-determination).

Many organisations and governments worldwide focus on improving the status of women and girls. According to the International Labour Organization, 11.4 million women and girls are victims of forced labour in different forms - including debt bondage, trafficking and forced prostitution. As global leaders seek to improve the status of women and girls, it is critical to focus on decreasing' exploitation of women and girls in forced labour, trafficking and slavery.

When women and girls are enslaved or trafficked, they do not have access to programmes aimed at woman's equality and development.

- Trafficked and enslaved women and girls often times do not attend school. Many a times these women and girls are illiterate.
- Trafficked and enslaved women and girls face gross sexual violence, whether in forced prostitution, forced marriage or forced physical labour.
- Trafficked and enslaved women and girls are subject to domestic violence.
- Trafficked and enslaved women and girls do not have access to reproductive and maternal health. The physical and sexual abuse of their exploitation leads to many early pregnancies, forced abortions and exposure to HIV and other diseases.
- Trafficked and enslaved women and girls do not have access to healthcare.

- Trafficked and enslaved women and girls often face critical malnutrition.
- Trafficked and enslaved women and girls do not have access to anti-poverty programmes, micro-loans or other economic development initiatives, leaving them dependent on their exploiters.

11.3 UNIVERSAL DECLARATION OF HUMAN RIGHTS

Universal Declaration of Human Rights (UDHRs) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 by General Assembly resolution 217 A (III) as a common standard of achievement for all people and all nations. It sets out, for the first time, fundamental human rights to be universally protected. Since its adoption in 1948, the UDHR has been translated into more than 500 languages - the most translated document in the world - and has inspired the constitutions of many newly independent States and many new democracies. The UDHR, together with the International Covenant on Civil and Political Rights and its two Optional Protocols (on the complaints procedure and on the death penalty) and the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, form the so-called International Bill of Human Rights.

Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights entered into force in 1976. The human rights that the Covenant seeks to promote and protect include the following rights:

- to work in just and favourable conditions;
- to social protection, to an adequate standard of living and to the highest attainable standards of physical and mental well-being;
- to education and the enjoyment of benefits of cultural freedom and scientific progress.

Civil and Political Rights

The International Covenant on Civil and Political Rights and its First Optional Protocol entered into force in 1976. The Second Optional Protocol was adopted in 1989.

The Covenant deals with such rights as freedom of movement; equality before the law; the right to a fair trial and presumption of innocence; freedom of thought, conscience and religion; freedom of opinion and expression; peaceful assembly; freedom of association; participation in public affairs and elections; and protection of minority rights. It prohibits arbitrary deprivation of life; torture, cruel or degrading treatment or punishment; slavery and forced labour; arbitrary arrest or detention; arbitrary interference with privacy; war propaganda; discrimination; and advocacy of racial or religious hatred.



CHECK YOUR PROGRESS

Q.1: State the meaning of human rights.

.....

.....

Q.2: Write the full form of UDHR.

.....

.....

Q.3: In which year was the UDHR adopted by the UN General Assembly?

.....

.....

11.4 AWARENESS REGARDING HUMAN RIGHTS AMONG INDIANS DURING COLONIAL PERIOD

India happens to be one of the few countries in the world having a chequered history of human rights movement. Though formidable antecedents of the protection and promotion of human rights may be traced to the ancient literature and life of the people, the foundation of the modern

human rights movement seem to have been laid in India only during the course of the anti-colonial struggle. In fact, in order to provide for a holistic critique of colonialism in the country, the leaders of the national movement found it convenient to denounce the British government in India for its utter disregard even to the basic human rights of the Indians while trying to perpetuate the colonial rule in the country. Thus, the provision for the highest order of human rights for the citizens of the country in the Constitution of independent India was taken for granted as the reflection of the cherished vision of the founding fathers of the Constitution since the times of the genesis of the national movement in the country.

In modern times, the genesis of the human rights movement in India may be traced to the colonial period. The long years of dehumanising colonial rule has ensured that the majority of Indians remain oblivious to the ideas of human rights, respect for common people and enjoyment of a dignified life. However, two sets of people actually started to think about the urge for human rights amongst the people impliedly, if not directly, via media of asking for social reforms in the Indian society on the one hand, and adoption of a more liberal attitude by the colonial government towards the issues dear to Indians like the freedom of press, etc on the other hand. While the first set of people consisted of those having sincere concern for the indigenously conceptualised social reforms in India so as to secure the human and livelihood rights for the hitherto marginalised sections of the society, the second category of people included a number of Indians as well as the Westerners who looked upon the British government to bring about the necessary positive transformations in the society and the polity of the country.

The pioneering efforts of the human rights movement in India appeared to have come from the relentless efforts of the social reformer Raja Ram Mohan Roy.

Consequently, Ram Mohan Roy became a critic of the redundant religious rituals violating the human rights of all the people in general, and those of the women in particular. Putting his efforts for the abolition of the

cruel and inhuman practices like Sati, he presented a comprehensive outline of reforms to ameliorate the conditions of women in India. He decried the general environment of violence against the rights of women and called for eradicating all such social practices like polygamy, child marriage, devadasi system, etc. which appeared to have denigrating effect on the dignity and respect of women. Moreover, providing creative solutions to the problems facing women in India, he advocated a number of progressive measures like widow remarriage, equal rights of women to property, etc. Besides waging a sustained struggle for the rights of women, Ram Mohan Roy also strived hard for the protection of the civil and political right of the Indians.



CHECK YOUR PROGRESS

Q.4: Write about the inhuman social practices among Indians during the colonial period.

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Q.5: Write two progressive measures advocated by Raja Ram Mohan Roy to abolish the inhuman social practices from Indian society.

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11.5 HUMAN RIGHTS MOVEMENT IN INDIA IN POST-COLONIAL PERIOD

The concept of human rights in independent India became obvious with the context in which the Constituent Assembly set on to fine-tune the provisions on fundamental rights of the people. The agenda of nation building, national security and the unity and integrity of the nation was so overbearing in the minds of the framers of the Constitution that they decided to enshrine the fundamental rights in the Constitution.

While the constitution making process was underway in India, the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR) in the year 1948. The adoption of the UDHR gave

a new impetus to the human rights movement in the newly independent countries like India. The Declaration made it clear to the countries to have a comprehensive framework of human rights for people in their constitutions on the pattern presented in the UDHR. Consequently, almost all the countries found it somewhat compelling to not only sign the UDHR but also reflect the ethos of the Declaration in the constitutions. Therefore, it became a prime task of the constitution makers in India to focus upon the requirements of the UDHR and the imperatives of the national unity and integrity.

It may be stated that the Constitution of India incorporates a number of valuable provisions having profound implications for the human rights movement in the country. The Indian Constitution includes certain provisions where direct or indirect references have been made with regard to the rights of the people are the Preamble, the Fundamental Rights and the Directive Principles of State Policy. The Preamble is based on the objectives of which was drafted and moved in the Constituent Assembly by Jawaharlal Nehru in the year 1946. It was a way of life which recognises liberty, equality and fraternity as the principles of life and which cannot be divorced from each other. Liberty cannot be divorced from equality and equality cannot be divorced from liberty. However, when it came to providing for the specific rights to the people, the Constitution makers thought of making a clear distinction between the first and the second generation of human rights, owing to the prevailing socio-economic conditions in the country. To ensure democratic system of governance in the country, it was obvious that elaborate provisions were made for the guaranteeing to the citizens certain fundamental rights, mainly in the nature of civil and political rights. Thus, as given in Part III of the Constitution, there exists six sets of fundamental rights i.e. right to equality, right to freedom, right against exploitation, right to religious freedom, cultural and educational rights and the right to constitutional remedies. It may also be stated here that the second generation of human rights are envisaged in Part IV of the Constitution in the nature of directive principles which are

to remain critical in the formulation of governmental policies and programmes on the condition of the availability of resources and social awareness amongst the people.



LET US KNOW

There are six fundamental rights in India. They are Right to Equality, Right to Freedom, Right against Exploitation, Right to Freedom of Religion, Cultural and Educational Rights, and Right to Constitutional Remedies.

Right to Equality ensures equal rights for all the citizens. The Right to Equality prohibits inequality on the basis of caste, religion, place of birth, race, or gender. It also ensures equality of opportunity in matters of public employment and prevents the State from discriminating against anyone in matters of employment on the grounds only of religion, race, caste, sex, descent, place of birth, place of residence or any of them.

Right to freedom provides us with various rights. These rights are freedom of speech, freedom of expression, freedom of assembly without arms, freedom of movement throughout the territory of our country, freedom of association, freedom to practice any profession, freedom to reside in any part of the country. However, these rights have their own restrictions.

Right against Exploitation condemns human trafficking, child labour, forced labour making it an offense punishable by law, and also prohibit any act of compelling a person to work without wages where he was legally entitled not to work or to receive remuneration for it.

Right to Freedom of Religion guarantees religious freedom and ensures secular states in India. The Constitutions says that the States should treat all religions equally and impartially and that no state has an official religion. It also guarantees all people the freedom of conscience and the right to preach, practice and propagate any religion of their choice.

Cultural and Educational Rights protects the rights of cultural, religious and linguistic minorities by enabling them to conserve their heritage and protecting them against discrimination. Educational rights ensure education for everyone irrespective of their caste, gender, religion, etc.

Right to Constitutional Remedies ensures citizens to go to the supreme court of India to ask for enforcement or protection against violation of their fundamental rights. The Supreme Court has the jurisdiction to enforce the Fundamental Rights even against private bodies, and in case of any violation, award compensation as well to the affected individual.



CHECK YOUR PROGRESS

Q. 6: Write the provisions of the Indian Constitution that represent the rights of the people.

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Q. 7: Mention the rights that are incorporated in the Part III of the Indian Constitution.

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11.6 LET US SUM UP

- Human rights are rights inherent to all human beings, regardless of gender, nationality, place of residency, sex, ethnicity, religion, colour or any other categorisation.
- Human rights are non-discriminatory, i.e. all human beings are entitled to them and cannot be excluded from them.
- Though all human beings are entitled to human rights, not all human beings experience them equally throughout the world.

- There are variety of human rights like- civil, political, economic, social, cultural and collective rights.
- Universal Declaration of Human Rights (UDHRs) is a milestone document in the history of human rights. It was adopted by the United Nations General Assembly in Paris on 10 December 1948.
- India happens to be one of the few countries in the world having a chequered history of human rights movement. The pioneering efforts of the human rights movement in India appeared to have come from the relentless efforts of the social reformer Raja Ram Mohan Roy.
- The Indian Constitution includes certain provisions where direct or indirect references have been made with regard to the rights of the people. These are- the Preamble, the Fundamental Rights and the Directive Principles of State Policy.
- The Fundamental Rights are considered as basic human rights of all citizens, irrespective of their gender, caste, religion or creed etc. These sections are the vital elements of the Constitution of India.



11.7 FURTHER READING

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4. Brysk, Alison (2009). *Global Good Samaritans: Human Rights as Foreign Policy*. Oxford University Press, USA.

5. Dembour, Marie-Bénédicte (2006). *Who Believes in Human Rights?: Reflections on the European Convention*. 1st ed. Cambridge University Press.

11.8 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: Human rights are rights inherent to all human beings, regardless of gender, nationality, place of residency, sex, ethnicity, religion, colour or any other categorization. It is also non-discriminatory, i.e. all human beings are entitled to them and cannot be excluded from them.

Ans. to Q. No. 2: Universal Declaration of Human Rights.

Ans. to Q. No. 3: The UDHR was adopted by the UN General Assembly on 10th December, 1948 in Paris.

Ans. to Q. No. 4: The inhuman social practices among Indians during colonial period were- Sati, Polygamy, Child Marriage, Devadasi System, etc.

Ans. to Q. No. 5: Two progressive measures advocated by Raja Ram Mohan Roy to abolish the inhuman social practices from Indian society were- widow remarriage and equal rights of women to property.

Ans. to Q. No. 6: The Preamble, the Fundamental Rights and the Directive Principles of State Policy represents the right of the people.

Ans. to Q. No. 7: In Part III of the Indian Constitution, there exists six sets of fundamental rights i.e. right to equality, right to freedom, right against exploitation, right to religious freedom, cultural and educational rights and the right to constitutional remedies.

11.9 POSSIBLE QUESTIONS

A) Very Short Questions

Q. 1: When is Human Rights Day observed?

Q. 2: What is the first Human Rights declaration adopted by the United Nations?

Q. 3: When was the UDHR adopted?

Q. 4: Where was the UDHR adopted?

Q. 5: Who were the key contributors to the drafting of the UDHR?

B) Short Questions (Answer each question in about 150 words)

Q. 1: What is International Bill of Rights?

Q. 2: Write a note on Universal Declaration of Human Rights.

Q. 3: Explain in brief about the human rights movement during colonial period.

C) Long Questions (Answer each question in about 300-500 words)

Q. 1: Critically examine the human rights movements in India.

Q. 2: Analyse the contributions of human rights movements in contemporary India.

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UNIT 12: CONSTITUTIONAL AND LEGAL FRAMEWORK OF HUMAN RIGHTS IN INDIA

UNIT STRUCTURE

12.1 Learning Objectives

12.2 Introduction

12.3 Constitutional Framework of Human Rights in India: Preamble, Fundamental Rights and Directive Principles of State Policy in India

12.4 Role of the Parliament in Protecting Human Rights in India

12.5 Role of the Indian Judiciary in Protecting Human Rights

12.6 National Human Rights Commission in India

12.6.1 Composition of the Commission

12.6.2 Functions of the Commission

12.6.3 National Human Rights Commission and Protection of Human Rights

12.7 Let Us Sum Up

12.8 Further Reading

12.9 Answers to Check Your Progress

12.10 Possible Questions

12.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- explain constitutional framework of human rights in India
- analyse the role of Parliament and Indian Judiciary in protecting Human Rights in India
- describe the functions and significance of National Human Rights Commission of India.

12.2 INTRODUCTION

The Universal Declaration of Human Rights (UDHR) has a great impact in the field of human rights in India and the framers of the Constitution

of India were also inspired a lot from the same. The adoption of UDHR and the drafting of Indian Constitution took place at a similar period and hence the later inherited a lot from this universal declaration. The framers of the Indian Constitution incorporated maximum provisions in term of rights and privileges for the Indian citizens, for which this Constitution can establish itself as one of the most right-based constitutions in the world. Besides this, the Indian legislature and judiciary have also adopted a number of measures to protect and promote rights of the people. In this unit, we shall discuss various constitutional, legal and judicial provisions adopted in India to safeguard rights and freedom of the Indian citizens.

12.3 Constitutional Framework of Human Rights in India: Fundamental Rights in India

The framers of the Indian Constitution incorporated a number of provisions related to rights and freedom. The Preamble to the Constitution itself contains a number of provisions related to right and freedom of the people. The Preamble to the Constitution declares that the state will try to establish equality and justice among all Indian citizens without any kind of discrimination and will ensure liberty of each and every Indian citizen. The Constitution of India tries to secure the objective of equality by making illegal all discriminations by the State on the basis of religion, sex, race, caste or place of birth, and by guaranteeing equality before the law and equal protection of law. The Preamble also declares that the state will secure justice, such as political, social and economic justice for all its citizens. The Preamble to the Indian Constitution also mentions that the state will secure liberty of thought, expression, belief, faith and worship for all the citizens of India. To secure all these objectives of equality, justice and liberty, the framers of the Indian Constitution has incorporated a number of provisions in Part III and Part IV of the Indian Constitution.

Part III of the Indian Constitution contains a list of Fundamental Rights (Article 12 to 35). These fundamental rights are considered as basic human rights. At the initial stage, the Constitution of India incorporated seven different types of Fundamental Rights. But the Right to Property

was made a legal right under Article 300A by 44th Amendment, 1978. At present, there are six Fundamental Rights in the Constitution. The Fundamental Rights which are incorporated in Article 15, 16, 19 and 29 are only available to the citizens of India and rest of the rights enshrined in other Articles are available to citizens and aliens alike. The fundamental rights incorporated in the Constitution are discussed below:

- **Right to Equality:** Article 14-18 deals with the right to equality which are the principal foundation of all other rights and liberties. Article 14 of the Constitution of India ensures equality before law for all the citizens of India without any distinction on the basis of caste, creed, colour, sex, religion, language, etc. Article 15 of the Constitution guarantees that no person shall be discriminated on the basis of caste, race, sex and language and ensures social equality and equal access to public areas by each categories of people. According to article 16, there shall be equality of opportunity for all citizens of India in matters relating to employment to any office under the state without any discrimination. Untouchability has been abolished under Article 17. For the enforcement of this provision, the Parliament had enacted the Protection of Civil Rights Act, 1955 and it was amended in 1976 for the smooth functioning of this Article. Article 18 which also falls under the category of first fundamental rights i.e Right to Equality, deals with the prohibition of the state from conferring any titles.
- **Right to Freedom:** Article 19 to 22 deal with the right to freedom. Article 19 states that all citizens of India shall have the right to freedom of speech and expression; to assemble peaceably without arms; to form associations; to move freely throughout the territory of India; to settle and reside in any part of the country; and to practice any profession or to carry out any trade or business. Article 21 declares that no citizen can be denied his or her life and personal liberty except by law which means that a person's life and personal liberty can only be disputed if that person has committed a crime.
- **Right against Exploitation:** Articles 23 and 24 of the Constitution deal with the right against exploitation. Child labour is basically

prohibited under right against exploitation. Through Article 23 human trafficking and all forms of forced labour are prohibited and these offences shall be punishable in accordance with law. According to Article 24, no child below the age of 14 years will be employed in any hazardous work.

- **Right to Freedom of Religion:** Article 25- 28 provide and guarantee religious freedom to all citizens of India. According to the Constitution, all religions are equal before the state and no religion shall be given preference over the other. It also states that no person shall be compelled to pay taxes for the promotion of a particular religion.
- **Cultural and Educational Rights:** Since India is a diverse country in terms of language, religion and culture, hence the Constitution also provides special measures to protect the rights of the minorities. Cultural and educational rights are incorporated in article 29 and 30 of the Indian Constitution. According to article 29, no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on the grounds of religion, race, caste, language or any of them. Article 30 provides that all communities shall have the right to establish and administer educational institutions of its choice and the state shall not discriminate against them in making grants on grounds of religion, race or language.
- **Right to Constitutional Remedies:** In case of any denial of fundamental rights, citizens can move to court of law through the provision of Right to Constitutional Remedies. According to article 32, the Supreme Court shall have power to issue directions or writs including the writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto and certiorari for the enforcement of the fundamental rights.

Apart from these Fundamental Rights the Constitution of India also has some other provisions related to human rights in Part IV in the form of Directive Principles of State Policy. These principles basically provide some guidance to the state while formulating and implementing policies so that rights and freedom of the citizens are protected. Some of these principles are- State shall ensure adequate means of livelihood for all citizens

irrespective of men and women, state shall also ensure equal pay for equal work for both men and women, it will ensure just and humane conditions of work, a decent standard of living, full employment, leisure and social and cultural opportunities; state shall provide protection of adult and child labour etc. From the above discussion it can be said that the Constitution of India has incorporated a number of provisions to protect and promote human rights of the Indian people.

12.4 ROLE OF THE PARLIAMENT IN PROTECTING HUMAN RIGHTS IN INDIA

In India, the Parliament plays a significant role in promoting and protecting human rights through shared responsibility with the executive and judiciary. For effective implementation of laws and other policies for the betterment of the individual, the Parliament acts as an important branch of the government. The Parliament takes special measure to prevent human rights abuses. The members of the Parliament act as a catalyst in the realisation of human rights domestically and internationally. Article 32 of Indian Constitution deals with the right to constitutional remedies for the enforcement of rights conferred by part III. Regarding right to constitutional remedies, the Parliament by law empowers any other court to exercise such powers within its jurisdiction. Article 35 of the Constitution of India empowers the Parliament to enact laws to ensure duty and discipline among armed forces. According to article 34, the Parliament may by law indemnify any person in the service of State for any act of such person violating Fundamental Rights of citizens of an area where martial law is in force for the time being. In India the Parliament is the active agency which always take care the issue of the rights of the individual. The Parliament also plays a pivotal role in protecting person against detention in certain cases. For instance, every person who is arrested shall be informed of the grounds for such arrest and shall be entitled to consult a legal practitioner of his or her choice.

In India the Parliament and the state legislatures have enacted a number of laws to protect and promote human rights of Indian people. Some of these laws are-

Protection of Human Rights Act, 1993; the Right to Information Act, 2005 ; the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; the National Rural Employment Guarantee Act, 2005; National Commission for Scheduled Castes and Scheduled Tribes Act; National Commission for Minorities Act, 1992; National Commission for Women Act, 1990; Protection of Civil Rights Act, 1955; the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; Immoral Traffic (Prevention) Act, 1956; Indecent Representation of Women (Prohibition) Act, 1986; Dowry Prohibition Act, 1961; Maternity Benefit Act, 1961; Children Act, 1960; Child Labour (Prohibition and Regulation) Act, 1986; the Minimum Wages Act, 1986; Bonded Labour (System) Abolition Act, 1976, etc.



CHECK YOUR PROGRESS

Q. 1: Write briefly about any two Fundamental Rights incorporated in the Constitution of India.

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Q. 2: Mention any two Directive Principles of State Policy incorporated in the Constitution of India.

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Q. 3: Mention any four Acts enacted by the Parliament of India to protect human rights of the Indian people.

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12.5 ROLE OF THE INDIAN JUDICIARY IN PROTECTING HUMAN RIGHTS

Indian Judiciary through its people centric approach plays a significant role in protecting the rights of every individual residing within the territory of India. The process of Public Interest Litigation initiated by

Justice V R Krishna Iyer and Judicial Activism by Justice P N Bhagwati have expanded human rights activities in India. The most significant part of the role of the judiciary in matters related to Human Rights is directly related to the right to constitutional remedies under Articles 32 and 226 of Indian Constitution. Individuals can directly approach the Supreme Court and the High Courts for the enforcement of their fundamental rights. Under Article 226, High Courts can issue different writs for the protection human rights of the people. These are-Habeas Corpus, Mandamus, Prohibition, Quo-warranto and Certiorari. Article 32 guarantee the individual the right to move to the Supreme Court to enforce their Fundamental rights.

Public Interest Litigation has greatly contributed in enhancing the accountability of the governments towards the Human Rights of the each and every section of people. The provisions of PIL significantly expanded the scope and frontier of Human Rights by interrogating power and establish the courts as people court. Through PIL anybody can file a writ petition for the enforcement of rights of any other person or a class, if they are unable to invoke the jurisdiction of the court due to poverty or any social and economic disability. In present day context, Public Interest Litigation has become an important tool for the protection of human rights of the people in India.

12.6 NATIONAL HUMAN RIGHTS COMMISSION IN INDIA

National institutions can play an important role in promoting and protecting human rights. They may complement the judiciary by monitoring the functioning of other institution of the state responsible for violation of human rights. The National Human Rights Commission may assist the judiciary in the performance of their task. The National Human Rights Commission can contribute in the efforts of the government to develop a human rights culture by making people aware of their rights. The establishment of National Human Rights Commission in India is an expression of its concern for the promotion and protection of human rights. It came into being on 12th October, 1993 under the Protection of Human Rights Act 1993. Chapter II to IV of the Act deals with NHRC.

12.6.1 Composition of the Commission

Chapter II of the Protection of Human Rights Act deals with the constitution of NHRC. Section 3 of the Act lays down that the Central Government shall constitute a body to be known as the National Human Rights Commission. The Commission consists of-

- A Chairperson who has been the former Chief Justice of the Supreme Court.
- One member who is or has been a judge of the Supreme Court.
- One member who is or has been the Chief Justice of a High Court.
- Two members to be appointed from amongst persons having knowledge or practical experience in matters relating to human rights.
- The Chairpersons of the National Commission for Minorities, the Schedule Castes and Schedule Tribes and Women are also to be appointed as the members of NHRC.

The Chairperson and other members of the Commission are appointed by the President on the recommendation of a six member committee headed by Prime Minister as Chairperson. Other members of the committee are- Speaker of the Lok Sabha, Minister-in-charge of the Ministry of Home Affairs in the Government of India, Leader of the Opposition in the Lok Sabha, Leader of the Opposition in the Rajya Sabha and Deputy Chairperson of the Rajya Sabha.

12.6.2 Functions of National Human Rights Commission

The functions of the Commission are laid down under Section 12 of the Act which reflect its activeness and responsibilities in the field of protection of Human Rights of the people. Some of the important functions of the Commission are-

- The Commission may intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.

- It can visit, under intimation to the state government, any jail or any other institution under the control of the state government, where persons are detained or lodged for the purpose of treatment, reformation or protection to study the living conditions of the intimates and make recommendations thereon.
- The Commission can review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.
- The Commission may review the factors, including acts of terrorism that prevents the enjoyment of human rights and recommend appropriate remedial measures.
- It studies treaties and other international instruments on human rights and make recommendations for their effective implementation.
- It undertakes and promotes research in the field of human rights.
- The Commission helps in spreading human rights literacy among various sections of the society and promotes awareness of the safeguards available for the protection of these rights through publications, media, seminars and other means.
- It encourages the efforts of the non-governmental organizations and institutions working in the field of human rights.
- The Commission shall perform such other functions as it may consider necessary for the protection of human rights.
- The Commission shall submit its annual report to the Central Government.

12.6.3 Protection of Human Rights and National Human Rights Commission

The National Human Rights Commission has been playing an important role in the protection of human rights in India. The Commission's purview covers the entire range of civil, political as

well as economic, social and cultural rights. Areas facing the problems like terrorism and insurgency, custodial death, rape and torture, reform of police, prisons and other institutions such as juvenile homes, mental hospitals, and shelter for women, etc. have been given special attention. The Commission has urged the provision of primary health facilities to ensure maternal and child welfare essential to a life with dignity, basic needs such as potable drinking water, food and nutrition. It has also highlighted the question of equity and justice to the less privileged namely SC and ST and the prevention of atrocities against them. Apart from those, rights of the disabled, access to public services, displacement of population, food scarcity and allegation of death by starvation, rights of the child, rights of women subjected to violence, sexual harassment and discrimination and rights of minorities have also been focused in the Commission's action on numerous occasions.

One of the major initiatives of the Commission is setting up of Human Rights Cells in the State/City Police Headquarters. It also deals with human rights of persons affected by HIV/AIDS. The Commission has also monitored the functioning of the Mental Hospital at Ranchi, Agra and Gwalior and the Agra Protection Home under a Supreme Court remit. It also deals with the welfare of the destitute widows of Vrindavan. The Commission recommended that para-military forces and army make it a point to report directly to the Commission for any instance of death or rape occurring while a person is in their custody.

The NHRC has issued a notice to the AIIMS Director seeking a factual report, within 2 weeks, on media reports that child patients (Hemant, Deepak, Kanchan) waiting for surgeries were suffering after a particular doctor (Dr. A. K Bisoi) in the hospital was suspended. The NHRC has also issued notice to the Uttar Pradesh government on the alleged fake encounter in Allahabad. It also issued notice to the Punjab government on reports of denial of treatment to an accident victim in hospital run by it. Taking suo motu cognizance of the series

of death in Tihar Jail, a team of NHRC launched its probe in the matter by inspecting the jail. The Commission also visited post Godhra communal riot. The Commission ordered an independent inquiry into the police firing on Gujjar agitators in Rajasthan which killed 35 people. The NHRC directed the Delhi Government to submit Tihar Jail's balance sheet giving details of wages paid to inmates. NHRC visited Orissa to review the situation in the wake of communal violence in Kandamahal district around Christmas. Further it also issued different legal notices to be strictly follow by different governmental agencies as well. It issued notice to the DGP of Haryana, the District Magistrate, Bhiwani and the Superintendent of Police asking them to take appropriate action after conducting investigation in line with NHRC guidelines concerning the case of killing of a student Kuldeep (22) by the Hisar Police in an encounter on account of mistaken identity. In Manipur, Armed Forces Special Power Act leads to massive violation of Human Rights. A lady Manoroma Devi was raped and died in army custody. In this case of custodial violence, NHRC also intervened to prevent such violation of human rights. Till now, NHRC has received more than 74,000 complaints from different categories from all over India. It has investigated a number of serious cases of human rights violation and it has submitted reports to the government suggesting measures to be taken to curb the process of human rights violations.

In India the full realisation of human rights is still a distant dream. Struggle for human rights must continue with greater vigour. The strong will and determination for the promotion of human dignity and worth will certainly make the human rights movement a great success and the NHRC in this regard to some extent, has played an important role.



CHECK YOUR PROGRESS

Q. 4: Write briefly about the composition of the National Human Rights Commission.

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Q. 5: Mention any four functions of the National Human Rights Commission.

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Q. 6: Write briefly about the role of the judiciary in the protection and promotion of human rights of the Indian people.

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12.7 LET US SUM UP

- The framers of the Indian Constitution incorporated a number of provisions related to rights and freedom. The Preamble to the Constitution itself contains a number of provisions related to rights and freedoms of the people. The Preamble to the Constitution declares that the state will try to establish equality, justice among all Indian citizens without any kind of discrimination and will ensure liberty of each and every Indian citizen.
- Part III of the Indian Constitution contains a list of Fundamental Rights Article 12 to 35. These fundamental rights are considered as basic human rights. These Fundamental Rights are- Right to Equality, Right to Freedom, Right to Freedom of Religion, Educational and Cultural Rights, Right Against Exploitation, Right to Constitutional Remedies.
- Apart from these Fundamental Rights the Constitution of India also has some other provisions related to human rights in Part IV in the form of Directive Principles of State Policy. These principles basically provide some guidance to the state while formulating and implementing policies so that rights and freedom of the citizens are protected.
- In India the Parliament plays a significant role in promoting and protecting human rights. For this purpose it has enacted a number of laws.
- Indian Judiciary through its people-centric approach plays a significant role in protecting the rights of every individual residing within the territory of India.

- The establishment of National Human Rights Commission in India is an expression of its concern for the promotion and protection of human rights. It came into being on 12th October, 1993 under the Protection of Human Rights Act 1993. Chapter II to IV of the Act deals with NHRC.
- NHRC has played a very significant role in promoting and protecting rights and freedom of the Indian people.



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12.9 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: (i) Right to Freedom: Article 19 to 22 deals with the right to freedom. Article 19 states that all citizens of India shall have the right to freedom of speech and expression; to assemble peaceably without arms; to form associations; to move freely throughout the territory of India; to settle and reside in any part of the country; and to practice any profession or to carry out any trade

or business. Article 21 declares that no citizen can be denied his or her life and liberty except by law which means that a person's life and personal liberty can only be disputed if that person has committed a crime.

(ii) Right against Exploitation: Articles 23 and 24 of the Constitution deal with the right against exploitation. Child labour is basically prohibited under right against exploitation. Through Article 23 human trafficking and all forms of forced labour are prohibited and these offences shall be punishable in accordance with law. According to Article 24, no child below the age of 14 years will be employed in any hazardous work.

Ans. to Q. No. 2: (i) State shall ensure adequate means of livelihood for all citizens irrespective of men and women.

(ii) State shall also ensure equal pay for equal work for both men and women.

Ans. to Q. No. 3: Protection of Human Rights Act, 1993; the Right to Information Act, 2005; the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; the National Rural Employment Guarantee Act, 2005; National Commission for Scheduled Castes and Scheduled Tribes Act.

Ans. to Q. No. 4: Chapter II of the Protection of Human Rights Act deals with the constitution of NHRC. Section 3 of the Act lays down that the Central Government shall constitute a body to be known as the National Human Rights Commission. The Commission consists of-

- A Chairperson who has been the former Chief Justice of the Supreme Court.
- One member who is or has been a judge of the Supreme Court.
- One member who is or has been the Chief Justice of a High Court.
- Two members to be appointed from amongst persons having knowledge or practical experience in matters relating to human rights.

- The Chairpersons of the National Commission for Minorities, the Schedule Caste and Schedule Tribes and Women are also to be appointed as the members of NHRC.

The Chairperson and other members of the Commission are appointed by the President on the recommendation of a six member committee headed by Prime Minister as Chairperson.

Ans. to Q. No. 5: (i) The Commission may intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court.

(ii) It can visit, under intimation to the state government, any jail or any other institution under the control of the state government, where persons are detained or lodged for the purpose of treatment, reformation or protection, to study the living conditions of the intimates and make recommendations thereon.

(iii) The Commission can review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.

(iv) The Commission may review the factors, including acts of terrorism that prevents the enjoyment of human rights and recommend appropriate remedial measures.

Ans. to Q. No. 6: Indian Judiciary through its people-centric approach plays a significant role in protecting the rights of every individual residing within the territory of India. The process of Public Interest Litigation initiated by Justice V R Krishna Iyer and Judicial Activism by Justice P N Bhagwati have expanded human rights activities in India. The most significant part of the role of the judiciary in matters related to Human Rights is directly related to the right to constitutional remedies under Articles 32 and 226 of Indian Constitution. Individuals can directly approach the Supreme Court and the High Court for the enforcement of their fundamental rights. Under article 226, High Courts can issue different writs for the protection of human

rights of the people. These are- Habeas Corpus, Mandamus, Prohibition, Quo-warranto and Certiorari. Article 32 guarantee an individual the right to move to the Supreme Court to enforce their Fundamental rights.



12.10 POSSIBLE QUESTIONS

A) Very Short Questions

Q. 1: Write the full form of the UDHR.

Q. 2: Which part of the Indian Constitution contains the list of Fundamental Rights?

Q. 3: State the meaning of Public Interest Litigation.

B) Short Questions (Answer each question in about 150 words)

Q. 1: Explain the constitutional framework of human rights in India.

Q. 2: Write briefly about the composition of the NHRC.

Q. 3: Write a note on Directive Principles of State Policy in India.

C) Long Questions (Answer each question in about 300-500 words)

Q. 1: Examine the provisions incorporated in the Indian Constitution to protect and promote rights of the people.

Q. 2: Explain the role of the Indian Parliament in the protection and promotion of human rights.

Q. 3: Examine the role of the Indian judiciary in the protection and promotion of human rights.

Q. 4: Discuss the role of the National Human Rights Commission in the field of human rights.

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UNIT 13: WOMEN RIGHTS IN INDIA

UNIT STRUCTURE

13.1 Learning Objectives
13.2 Introduction
13.3 International Conventions on Women
13.4 Constitutional Provisions for Protecting Rights of women in India.
13.5 Role of the Legislature in Protecting Rights of Women in India
13.6 Issues and Challenges
13.7 Let Us Sum Up
13.8 Further Reading
13.9 Answers to Check Your Progress
13.10 Possible Questions

13.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- acquire an idea about the International Conventions related with the rights of women
- explain the Constitutional Rights of women in India
- analyse the Legislations passed by the Parliament of India relating to the Rights of women in India
- examine the issues and challenges that women are facing today in India

13.2 INTRODUCTION

Rights of Women can be traced back to the French Revolution. The notion that human rights included the rights of women were contested by the women revolutionaries during the French Revolution. There was a separate movement for women rights apart from the movement of human rights led by women revolutionaries. Women struggled to achieve equal rights with men in their choice of work, right to education, equal pay for equal work, political rights and so on.

It was only after the Second World War when women's participation in the war effort and participation of women in the freedom struggle in the erstwhile colonies could not be ignored and the women's rights movement was accepted as part of international human rights agenda.

The rights of women and human rights go hand-in-hand. Human Rights are inalienable rights of humans, so as rights of women are inseparable rights of women. The United Nations, in the 20th century, has achieved in uplifting the rights of women through various Conventions.

For the protection of women's right all over the world, the UN set up in 1946, a Commission on the Status of Women (CSW) to monitor and promote women's rights. The U.N. declared 1975 - 1985 as the Women's Development Decade to focus on the extent of discrimination against women and promote legislative measures to end all forms of discrimination.

The first World Conference on Women held in Mexico City on June - July 1975 adopted a Declaration on the Equality of Women and their contribution to the development of peace. It was endorsing the proposals of the Mexico Conference, that the UN General Assembly proclaimed the period 1976-85 as the UN Decade for Women Equality, Development and Peace.

The Second World Conference on Women was convened in Copenhagen in 1980 which added three sub-themes: "Education, Employment and Health".

The Third World Conference on Women, held in Nairobi in 1985, adopted "Forward Looking Strategies for the Advancement of Women, to the year 2000". The Nairobi Conference went a long way in heightening international concern over violence against women.

The Commission on the Status of Women (CWS) Platform for Action prepared for the UN Fourth World Conference on Women at Beijing(4-15 September 1995) aimed at, protecting women's human rights throughout the life cycle, and violence against women was identified as a critical area of concern. The slogan "women's rights are human rights" was no ordinary achievement. It lifted the world human rights movement to a new level of development. The Beijing Conference adopted strong and elaborate recommendations for the protection and promotion of women's human rights.

13.3 INTERNATIONAL CONVENTIONS ON WOMEN'S RIGHTS

The U.N. has achieved a commendable achievement in the field of women's human rights. Besides the adoption of the U.N. charter in 1945 providing for equality of men and women, the following achievements are worth mentioning:

i) Establishment of the Commission on Status of Women in 1946 to promote women's political, economic and social rights.

ii) Adoption of the Convention for the suppression of the Traffic in persons and the Exploitation of the Prostitution of others by the General Assembly in 1949.

iii) Adoption of Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value by the ILO in 1951.

iv) Adoption of the Convention on Political Rights of Women including the Right to Vote by the General Assembly in 1952.

v) Adoption to the Convention on the Nationality of Married Women in 1957 granting women the right to retain or change their nationalities regardless of their husband's actions.

vi) Adoption of the Convention concerning Discrimination in respect to Employment and Occupation in 1960.

vii) Adoption by the General Assembly in 1962, the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

viii) Adoption of Declaration on the Elimination of Discrimination against Women in 1967.

ix) Adoption of the Convention on the Elimination of all Forms of Discrimination against Women by the General Assembly in 1976 (CEDAW).

x) In 1993 Declaration on Elimination of Violence against Women is adopted by the General Assembly.

Thus moving into the 21st century, the drive for women's rights has accelerated reaching to a powerful global momentum. Internationally, many treaties have been entered into and State Governments on their part have adopted various legislations.

13.4 CONSTITUTIONAL PROVISIONS FOR PROTECTING RIGHTS OF WOMEN IN INDIA

Women enjoy a unique position in every society. In spite of their contribution in all spheres of life, they suffer in silence and belong to a class which is in a disadvantaged position on account of several barriers. India being a country is no exception to it.

In India women are the epitome of Shakti. During the Vedic period women were honoured for their knowledge and beauty. They were given a respectful position. There were great women scholars during the Vedic period. But the condition of women started to deteriorate from the medieval period. There arose lots of barriers for women in India.

With the coming of the British there were changes in the condition of women. In the modern era women were given the privilege to perform in the society. During the Renaissance period the condition of women changed. They were given due privilege. Raja Ram Mohan Roy abolished the Sati system. The Hindu Widow's Remarriage Act, 1856, legalised the remarriage of Hindu widows in all jurisdictions of India under East India Company rule.

Women participated in the freedom struggle. Women were given privilege to read and write. A number of women scholars energed in contemporary India.

After the post-independence period womens rights movements became more activated. In the international arena UN commitment towards women's rights were remarkable. UN developed many Conventions as discussed above. In India also these Conventions had a great impact.

India has ratified the Convention on the Elimination of all Forms of Discrimination against Women (1979) on July 9, 1993.

The Constitution of India provides right to equality to women. The Preamble starts by saying that we, the people of India, give to ourselves the Constitution. The source of the Constitution is thus traced to the people, i.e. men and women of India, irrespective of caste, community, religion or sex.

i) Political Rights:

Women participated equally in the freedom struggle and under the Constitution and law, have equal rights as men, enabling them to take part effectively in the administration of the country. There has been demand for reservation of 33% seats for women in the Lok Sabha and Vidhan Sabhas. Political empowerment of women has been brought by the 73rd and 74th Amendments which reserve seats for women in Gram Panchayats and Municipal bodies.

ii) Economic Rights:

There has been legislation conferring equal rights for women and men. These legislations have been guided by the provisions of the fundamental rights and Directive Principles of State Policy.

iii) Social Rights:

For providing social justice to women, the most important step has been codification of some personal laws in our country which cause the biggest challenge in this context.

The Hindu Marriage Act, 1955 is a great social change to Hindu women. Process has been going on to bring Uniform Civil Code as a social change. Vishaka and others v State of Rajasthan has brought a great social change for sexual harassment in work place.

2) Fundamental Rights:

Human rights which are the entitlement of every man, woman and child because they are human beings have been enforceable as constitutional or Fundamental Rights in India.

India has given equal status to women under its constitution under Article 14 which provides that "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India". The above provision clearly shows that women in India enjoy right to equality and any discrimination against them shall be violations of equality, of right and respect for human dignity.

Article 15(3) provides that State may make special provisions for women. Article 16 of the Constitution provides that there shall be equality

of opportunity for all citizens (including women) in matters relating to employment or appointment to any office under the State.

The Constitution, thus, provides equal opportunities for women.

3) Right against Exploitation:

Article 23 of the Constitution specifically prohibits traffic in human beings. Trafficking in human beings has been prevalent in India for a long time in the form of prostitution and selling and purchasing of human beings. To give meaning to Article 23 various laws have been passed to prevent exploitation of human beings in varied forms. The Immoral Traffic (Prevention) Act, 1956 prohibits the practice of prostitution in India.

4) Directive Principles of State Policy:

Fundamental Rights cater to individual while the Directive Principles of State Policy cater to social needs. These provisions are contained in Part IV of the Constitution. Though these Principles are not enforceable in any court of law they are fundamental in the governance of the country and provide for the welfare of the people, including women.

Article 39(a) directs the State to direct its policy towards securing that citizens, men and women, equally have the right to an adequate means of livelihood.

Article 39(d) directs the State to secure equal pay for equal work for both men and women. The State in furtherance of this directive passed the Equal Remuneration Act, 1976 to give effect to the provision.

Article 39(e) specifically directs the State not to abuse the health and strength of workers, men and women.

Article 42 of the Constitution incorporates a very important provision for the benefit of women. It directs the State to make provisions for securing just and human conditions of work and for maternity relief.

Article 44 directs the State to secure for citizens a Uniform Civil Code applicable throughout the territory of India. Its particular goal is towards the achievement of gender justice. This is a code relating to codification of personal laws of the country irrespective of religion. The judiciary has recognised the necessity of uniformity in the application of civil laws relating

to marriage, succession, adoption, divorce, maintenance, etc. but as it is only a directive it cannot be enforced in a court of law.

5) Fundamental Duties:

Part IV-A which consist only one Article 51-A was added to the Constitution by the 42nd Amendment, 1976. Article 41-A(e) is related to women. It states that:

"It shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, regional or sectional diversities; to renounce practices derogatory to the dignity of women".

6) Women's Representation in Local Bodies:

The 73rd and 74th Amendments to the Indian Constitution effected in 1992 provide for reservation of seats for women in Elections to Panchayats and Municipalities.

Reservation of seats for women in Panchayats and Municipalities have been provided in Articles 243-D and 243-T of the Constitution of India.

The provisions of the Constitution safequarding the rights of women will be effective when the Parliament of India will pass more legislations on women and implement them with dedication.

13.5 ROLE OF LEGISLATURE IN PROTECTING THE RIGHTS OF WOMEN

The Law makers of India has passed many legislation on Women. The International conventions has had an impact on Indian legislators.

India has ratified the (CEDAW) on July 9, 1993. India has made legislation relating to the rights of women keeping in mind the CEDAW Convention.

Some of the landmark legislations that seek to enhance and protect the economic and social status of women are as follows:

- Sati Prevention Act, 1987
- The Hindu Widow Remarriage Act, 1856
- Minimum Wages Act, 1951

- The Hindu Marriage Act, 1955
- Hindu Succession Act , 1956
- The Dowry Prohibition Act,1961
- Maternity Benefits Act, 1961
- Domestic Violence Act, 2005

The law-makers of the country have made the legislations keeping in mind the U.N. Conventions relating to the rights of women as discussed above and the Constitution of India.

Now, women can complain if there is any domestic violence or if there is violence related to dowry. The working women will get maternity benefits.

India has contributed to the rights of women. But there is still a long way to go to achieve the goal.

Despite the legislations women still suffer in silence. There is criminal justice system in India which protects women from crimes like rape (375,376,376A,376B,376C and 376D of IPC), dowry death (section 304-B, IPC). But we find that women are the victims in spite of all the laws that are prevalent in the Indian Justice System. There are lots of issues and challenges in this regard.

13.6 ISSUES AND CHALLENGES

There is still a considerable gap between constitutional rights and their application in the day-to-day lives of most women. At the same time it is true that women are working in jobs which are exclusively in masculine domains. There are still instances which exhibit lack of confidence in their capability and efficiency.

There still prevails doubt for their capacities to meet the challenges. The issues are:

- Lack of sanitation facility for them.
- The Criminal Justice System fail in some aspects to protect women from crimes like rape, dowry death despite laws that are prevalent in India for women.
- The legislators has made many legislations but still women face problems like domestic violence.

- 33% reservation for women in Parliament has not come into a reality till now.
- In rural areas women still live in trauma as compared to the urban areas. Issues like witch hunting is prevalent in rural areas.

These are some of the issues which women faces in an Indian society. These challenges should be met out to achieve the ultimate goal. The progress of a nation is in the achievement of making women equivalent with men.

Indian Government has taken initiative like "Beti Bachao Beti Parhao". This movement will lead India to a new level if it is implemented properly. Today's India is a young India and India will be a developed nation if both men and women work on the same footing.

The world has achieved a lot in the 21st century and as a nation India should lead women in the global arena where there will be women doctors, engineers, scientists, lawyers, judges who will lead the world and make it a better place to live in.

U.N. has made a remarkable progress in achieving women's right but there is still a long way because this can be achieved when all the member nations specially the under-developed and developing nations contribute to the rights of women.



CHECK YOUR PROGRESS

Q. 1: When was the first world Conference on women held?

.....

Q. 2: When did India ratify the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)?

.....

Q. 3: Which Articles of the Indian Constitution provides for equality of both men and women?

.....

Q. 4: Which Article of the Indian Constitution prohibits human trafficking?

.....

Q. 5: Which Part of the Indian Constitution provides for social rights of Women?

.....

Q. 6: Name two legislations which prohibits violence against women?

.....



13.7 LET US SUM UP

- The notion of women's right can be traced back to the French Revolution where rights of women were contested by the women revolutionaries.
- The UN set up a Commission on the Status of Women (CSW) in 1946 to monitor the situation and promote women's rights.
- The first World Conference on Women was held in Mexico City from June - July 1975. It adopted a Declaration on the Equality of Women and their contribution to the development of peace.
- In 1979 the U.N. adopted the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW).
- The Constitution of India also safeguards the rights of women. Article 14, 15(1), 15(2), 16(1), 16(2) speaks about equality of men and women. Article 15(3) made special provisions for women.
- Article 23 prohibits human trafficking like prostitution.
- The Directive Principles of State Policy provides for social rights.
- It is the Fundamental duty also not to practice anything which is derogatory to the dignity of women.
- There are legislations passed by the Indian Parliament for the protection of rights of women.

- Hence the rights of women are protected by the U.N. Conventions and its impact is seen in India where the rights are protected through the Constitution and the Legislations.



13.8 FURTHER READING

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2. Yasin, Adil-ul-Yasin & Upadhyay Archana.(2006) *Human Rights*. First Edition, Akansha Publishing House: New Delhi.
3. Kapoor, S.K. (2005) *Human Rights under International Law & Indian Law*: Third Edition, Central Law Agency: Allahabad.
4. Rao, Mamta. (2010) *Law relating to Women & Children*: Second Edition, Eastern Book Company:Lucknow.
5. Bare Act:

   Bakshi, PM. (2017) *The Constitution of India, Incorporating all amendments up to the Constitution* (One Hundred and First Amendment) Act, 2016: Fourteenth Edition, Universal Law Publishing, Lexis Nexis: Gurgaon (India).
6. Websites:

   www.google.com

13.9 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: The first World Conference on Women was held in Mexico from June-July in 1975.

Ans. to Q. No. 2: India has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (1979) on July 9, 1993.

Ans. to Q. No. 3: Article 14, 15(1), 15(2), 15(3), 16(1), 16(2) provides for equality of both men and women.

Ans. to Q. No. 4: Article 23 of the Indian Constitution prohibits human trafficking.

Ans. to Q. No. 5: Part IV which is Directive Principle of State Policy provides for social rights of Women.

Ans. to Q. No. 6: The Dowry Prohibition Act of 1961 and Domestic Violence Act 2005 prohibits violence against women.



13.10 POSSIBLE QUESTIONS

A) Very Short Questions

Q. 1: Write the full form of CEDAW.

Q. 2: In which year did India adopt the Domestic Violence Act?

Q. 3: What were the three sub-themes of the Second World Conference on Women convened in Copenhagen in 1980?

B) Short Questions (Answer each question in about 150 words)

Q. 1: Write a note on the constitutional rights of women in India.

Q. 2: Explain the role of Legislature in protecting the rights of women.

Q. 3: Write a few measures to meet the challenges facing by the women in Indian society.

C) Long Questions (Answer each question in about 300-500 words)

Q. 1: Discuss is details about the World Conferences that led to the women's rights movement.

Q. 2: What are the Constitutional safeguard for women's right in India? Discuss.

Q. 3: Provide a detailed explanation of the legislations protecting the rights of women.

Q. 4: Discuss the issues and challenges facing by the women in Indian society.

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UNIT 14: RIGHTS OF CHILDREN IN INDIA

UNIT STRUCTURE

14.1 Learning Objectives

14.2 Introduction

14.3 Constitutional Provisions for Protecting Rights of Children in India

14.4 Role of the Legislature in Protecting the Rights of the Children in India

14.5 Problem of Child Labour in India

14.6 Let Us Sum Up

14.7 Further Reading

14.8 Answers to Check Your Progress

14.9 Possible Questions

14.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- explain the constitutional provisions for protecting child rights in India
- discuss the role of the legislature in protecting the rights of the children in India
- examine the problem of child labour in India.

14.2 INTRODUCTION

The issue of child right is considered to be more crucial in the context of Indian society. Since we all believe that today's children are tomorrow's nation builders, so we must provide them an environment where they can develop themselves to the fullest extent. And for this, they must be entitled to a variety of rights and freedom. But the fact is that the rights of the children have been violated at different levels due to many reasons. India is also not an exception in this regard. In the post- cold war phenomena, the increasing level of socio-political violence in the context of the entire

world in general and India in particular created a great security dilemma which also hampers the issue of human rights more specifically for children. For promoting and protecting rights of children, a number of measures have been adopted both at national and international levels. In the previous units we have discussed the initiatives adopted at the international level to protect rights of children. Now in this unit, we shall examine the measures adopted in India in this regard.

14.3 CONSTITUTIONAL PROVISIONS FOR PROTECTING RIGHTS OF CHILDREN IN INDIA

At the international level, the UN General Assembly adopted the Convention on the Rights of the Child (CRC) on 20th November, 1989 and it came into force on September 2, 1990. This is the first globally binding treaty for the protection of children's civil, political, economic, social and cultural rights. India has also adopted a number of measures to protect and promote the rights of children. The Constitution of India contains a number of provisions which aim at securing rights of children. The Preamble of the Indian Constitution itself declares that it shall secure justice, liberty, equality among all the citizens of India which include children also. A number of Articles of the Indian Constitution contains certain provisions which basically reflect the issue of child rights. Some of them are as follows:

- **Article 23:** Article 23 stressed on "prohibition of traffic in human beings and forced labour". According to this Article, trafficking in human beings and beggar and similar forms of forced labour are prohibited and any breach of this provision shall be an offence punishable in accordance with law.
- **Article 24:** According to this Article, no child below the age of 14 years shall be employed to work in any factory or mine or engage in any other hazardous employment.
- **Article 39:** Article 39 provides that the State shall direct its policy towards securing health and strength of workers, men and women

and children of tender age are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength. This Article also mentions that the children should be given opportunities to develop in a healthy manner and in condition of freedom and dignity and childhood and youth are to be protected against moral and material abandonment.

- **Article 45:** This Article provides that the State shall endeavour to provide within a period of ten years from the commencement of the Constitution, for free and compulsory education for all children until they complete the age of 14 years.

In the year 2002 the 86th Amendment to the Constitution was passed which added Article 21 A to the Constitution. This Article provided right to education as a fundamental right and mentioned that each and every child within the age of six to fourteen shall be entitled to free and compulsory education.

The Fundamental Duties incorporated in Part IV A of the Indian Constitution also contain provisions which aim at protecting right of children. In 2002, the 86th Amendment to the Constitution of India added 11th Fundamental Duty which states that it is the duty of the parents or guardian to provide education to the children between the age of six to fourteen years.



CHECK YOUR PROGRESS

Q. 1: The Convention on the Rights of the Child (CRC) was adopted on …….. (Fill in the blank).

Q. 2: In which year was the right to Education made a fundamental right?

.....

Q. 3: Write briefly about any two provisions of the Indian Constitution to protect rights of children.

.....

.....

14.4 ROLE OF THE LEGISLATURE IN PROTECTING THE RIGHTS OF THE CHILDREN

In India the parliament has been playing a very significant role in protecting the rights of the children. Keeping in mind the importance of child rights, India has enacted many legislations to give effect to various provisions of the Constitution and other international instruments. Some of the important Acts enacted in India in this regard are-

(i) Child Marriage Restraint Act of 1929

(ii) Children (Pledging of labour) Act of 1933

(iii) Employment of Children Act of 1938

(iv) Children Act of 1960

(v) The Child Labour (Prohibition and Regulation) Act of 1986

(vi) Juvenile Justice (Care and Protection of Children) Act 2000

(vii) Prohibition of Child Marriage Act 2006

(viii) The Protection of Children from Sexual Offences Act, 2012

To protect and safeguard the interests and welfare of the children and to give effect to the minimum standards prescribed by the Convention on the Rights of Child, India has passed the Juvenile Justice (Care and Protection of Children) Act 2000 in December, 2000. In India, the Juvenile Justice Act tries to bring the Indian law in conformity with the Convention and provides various alternatives for the rehabilitation of the exploited children.

Another important legislation in India regarding child rights is the Commission for Protection of Child Rights Act. This Act was passed by the Indian Parliament in the year 2005. This act provided for the establishment of the National Commission for Protection of Child Rights which starts its working in 2007. This Commission is a statutory body which operates under the aegis of the Ministry of Women and Child Development of Government of India. The Commission defines child as those who come under the age of 18 years. The main trust of the Commission is to ensure that in India all

the laws, policies, programmes and administrative mechanisms should be in accordance with the provisions of the Constitution related to child rights and the Convention on the Rights of Child adopted by the UN General Assembly. Some of the important functions of the Commission are-

(a) The Commission reviews and examines all the legal measures provided for the protection of child rights and makes recommendations for their effective implementation. It also enquires into the cases of violation of child rights and makes recommendation of proceedings of such cases.

(b) The Commission submits its annual and periodic reports to the Central government.

(c) The Commission examines all the negative factors that may put obstacles in the enjoyment of rights by the children and recommends appropriate solutions.

(d) The Commission undertakes and promotes research in the field of child rights. It also works for spreading awareness regarding child rights among different sections of the society. The Commission also encourages incorporation of child rights into the school curriculum, promotes training of teachers or personnel dealing with children.

(e) The commission also looks into matters relating to the children in need of special care and recommends appropriate remedial measures.

(f) The Commission inspects juveniles' custodial home or any other places made for children where children are kept for reform, under the control of the state or central government, and makes recommendations for their improvement.

(g) The Commission undertakes study and review of treaties, other international instruments, policies, programmes and other activities on child rights and makes recommendations for their effective implementation.

(h) The commission can also undertake any other function which is considered necessary for promoting and protecting rights of children.

The legislative mechanism in India with the series of legislations tries to do justice to the children. But for the effective implementation of all the legislations, adapting nature of the society is more important. If the society fails to move forward to adapt all new positive dimensions, all the efforts in protecting the rights of the children will prove to be futile.



CHECK YOUR PROGRESS

Q. 4: Name any two Acts enacted in India to protect rights of children.

.....

.....

Q. 5: In which year was the National Commission for Protection of Child Rights established?

.....

Q. 6: Write any four functions of the National Commission for Protection of Child Rights.

.....

.....

14.5 PROBLEM OF CHILD LABOUR IN INDIA

Child labour has been a serious problem in India. The problems of child labour prevails in India particularly in certain sectors like agriculture, carpet-weaving, other small industries, etc. According to the Child Labour Prohibition Act 1986, a child is defined "as any person below the age of 15 or up to the age of 14". This Act prohibits employment of a child in any job including domestic help. The 2011 Census in India found a total of 10.1 million child labour between 5-14 age groups among 259.64 million child population in that age group. UNICEF estimates that India with its larger population has the highest number of labourers in the world under 14 years of age. Poverty, hunger, lack of education, the growth of the informal economy are considered to be the key causes of child labour in India. In a third world country like India, employers basically want to employ cheap

labourer especially in small industrial sectors like glass industry, carpet industry, brick industry, hotels, stalls, etc. because the owner can engage the child labourer at the cost of minimum wages. In India, both boys and girls under 15 years are forced to pick up jobs mostly in unorganised sector wherein they face problems like long hours of work, work in hazardous employment, low wages, work in unhealthy environment, etc. As a result of this sort of degradable environment of work, the children undergo serious problems in terms of health insecurity. In most of the urban areas in India, there are increased numbers of children working in small tea stalls which increases their vulnerability. In some occasions, the numbers of child labour has increased due to the reluctance of the parents to send their children to schools for education as they are the sole bread-earners of their families. In India, child labour is deliberately created by vested interests to get cheap labour. Child labour in India is not only an economic compulsion for poor families but also a consequence of extreme social and economic exploitation. According to International Labour Organization, educational interventions are central to the prevention and elimination of worst forms of child labour. Lack of education is one of the important causes of child labour in India.

In the modern day nation state system, child labour remains a crucial issue in the developing and underdeveloped countries. Though the neo-liberal state structure accelerated the process of development in the third world countries, yet the problem of child labour has increased in these regions. India is not an exception to this problem. Child labour in India is related to the economic condition of the families in terms of its members in workforce. Depending upon the degree of dependency condition on the part of the family, the child of that family has to engage herself/himself in different hazardous work which increases the problems of child labour in India. There are instances where children are deprived of their fundamental right to education even after many decade of independence. Sometimes the lack of affordable school for the education of poor children leaves them illiterate and helpless. As a result children are forced to live without studying which ultimately pushes them into the trap of child labour in India.

The main reason behind increasing child labour in India is poverty and socio-economic backwardness. Due to poverty, the economic condition of the weaker family gradually declines which ultimately results in increased number of child labour. The parents of weaker family send their children to work in hotels, shops, factories, home, agricultural fields instead of sending them to school. The socio-economic condition of the poor family always remains stagnant because these categories of people due to their economic dependency prefer to engage their children in different labour work instead of thinking in terms of education of their children. Lack of education on the part of the poor families due to lack of resources is one of the significant factors for the prevailing child labour in India. Education of the children is a necessary criterion for minimising the number of child labour. Larger the educated masses, lesser will be their orientation towards sending their children to work.

There is an increasing demand in the labour market for wage labour in the third world countries like India. So, the poor families try to engage their children in different kinds of wage labour in order to get more wages. The lower wage rate of the children increases their demand in the market which ultimately results in higher degree of child labour. In situation of poverty, there is a tremendous pressure on the part of a child to engage himself or herself in any form of work so that he or she may be able to contribute something for the survival of the family. In the age of globalisation and neo-liberal structure of the state mechanism, the three stances i.e liberalization, privatization and consumerism inspire to go for cheap labour. Subsequently, the need for cheap labour and its connection with economic needs of the needy sections fastens the degree of child labour in India. The small industries and shopkeepers recruit children in the hope of earning more profit as the child works at the cost of half payment in comparison to the elder workers.

In India a number of initiatives have been adopted to eradicate the problem of child labour. Article 23 and 24 of the Indian Constitution have clearly highlighted the issue of child labour. Article 24 of the Indian Constitution states that no child below the age of 14 years shall be employed to work in any factory or mine or be engaged in any other hazardous

employment. Article 45 mentions that the State shall provide free and compulsory education to the children till the age of 14 years. The Indian parliament has enacted a number of Acts to deal with the problem of child labour. These Acts prohibit employment of children in different sectors. Some of these Acts are- Indian Factories Act (1948), Indian Mines Act (1952), Beedi and Cigar Workers (Conditions of Employment) Act (1966), Child labour (Prohibition and Regulation) Act (1986), etc.

In 1988, the Government of India launched a project for the eradication of child labour and the problem of illiteracy in India. The Child Labour (Prohibition and Regulation) Act, 1986 was enacted on 23rd December 1986 by the Indian Parliament and was enforced on 26th May, 1993 by the Central Government. The main objectives of this Act are-

- Ban on the employment of children i.e, those who have not completed their fourteenth years, in specified occupations;
- Lay down a procedure to decide modifications to the schedule of banned occupation and processes;
- Regulate the conditions of work of children in employment where they are not prohibited from working;
- Lay down enhanced penalties for employment of children in violation of the provisions of this Act, and other Acts which forbid the employment of the children;
- To obtain uniformity in the definition of 'child' in the related laws.

In India though the Constitution and Legislature have provided a number of measures to eradicate the problem of child labour, still this problem has been posing a serious threat in the actual realisation of human rights of children in India.



CHECK YOUR PROGRESS

Q. 7: Mention any two causes responsible for the growth of the problem of child labour.

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Q. 8: Mention any two objectives of the Child Labour (Prohibition and Regulation) Act, 1986.

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14.6 LET US SUM UP

- As a vulnerable section of the society, rights of children are grossly violated in many parts of India.
- For promoting and protecting rights of children a number of measures have been adopted both at national and international levels. At the international level, the UN General Assembly adopted Convention on the Rights of the Child (CRC) on 20th November, 1989 and it came into force on September 2, 1990. This is the first globally binding treaty for the protection of children's civil, political, economic, social and cultural rights.
- India has also adopted a number of measures to protect and promote rights of children. The Constitution of India contains a number of provisions which aim at securing rights of children. The Preamble of the Indian Constitution itself declares that it shall secure justice, liberty, equality among all the citizens of India which include children also.
- A number of Articles of the Indian Constitution contains certain provisions which basically reflect the issue of child rights. Such as Article 23 and 24 of the Indian Constitution deal with the problems of human trafficking and child labour, Article 39 provides that the State shall direct its policy towards securing health and strength of workers, men and women and tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocations unsuited to their age or strength. Article 45 provides that the State shall endeavor to provide within a period of ten years from the

commencement of the Constitution, for free and compulsory education for all children until they complete the age of 14 years.

- Right to education was made a fundamental right in India in the year 2002 through the 86th Amendment to the Constitution which added Article 21 A to the Constitution. Again the 86th Amendment to the Constitution of India also added 11th Fundamental Duty which states that it is the duty of the parents or guardians to provide education to the children between the age of six to fourteen years.
- The Indian Parliament has enacted a number of legislation to protect and promote rights of children. Some of these important Acts are- Child Marriage Restraint Act of 1929, Children (Pledging of labour) Act of 1933, Employment of Children Act of 1938, Children Act of 1960, the Child Labour (Prohibition and Regulation) Act of 1986, Juvenile Justice (Care and Protection of Children) Act 2000, Prohibition of Child Marriage Act 2006, the Protection of Children from Sexual Offences Act, 2012.
- In India the National Commission for Protection of Child Rights was established under the Commission for Protection of Child Rights Act, 2005. The Commission performs a number of functions to protect rights of children in India.
- In India the problem of child labour has been posing a serious threat to the rights of children. Poverty, hunger, lack of education, the growth of the informal economy are considered to be the key causes of child labour in India.
- The India parliament has enacted a number of Acts to deal with the problem of child labour, such as- Indian Factories Act (1948), Indian Mines Act (1952), Beedi and Cigar Workers (Conditions of Employment) Act (1966), Child labour (Prohibition and Regulation) Act (1986), etc.



14.7 FURTHER READING

1. Agarwal, H.O. (2006). *Human Rights*; Allahabad, Central Law Publications.
2. Sanajoaba, N. (1994): *Human Rights: Principles, Practices and Abuses*; New Delhi: Omsons Publication.
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4. Yasin, Adil-ul & Upadhayay Archana (2004): *Human Rights*; New Delhi: Akansha Publishing House.

14.8 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: 20th November, 1989.

Ans. to Q. No. 2: 2002.

Ans. to Q. No. 3: Article 23 of the Indian Constitution stressed on "prohibition of traffic in human beings and forced labour". According to this Article, trafficking in human beings and beggar and similar forms of forced labour are prohibited and any breach of this provision shall be an offence punishable in accordance with law.

According to Article 24, no child below the age of 14 years shall be employed to work in any factory or mine or engage in any other hazardous employment.

Ans. to Q. No. 4: Prohibition of Child Marriage Act 2006, the Protection of Children from Sexual Offences Act, 2012.

Ans. to Q. No. 5: 2005.

Ans. to Q. No. 6: (i) The National Commission for Protection of Child Rights reviews and examines all the legal measures provided for the protection of child rights and makes recommendations for their effective implementation. It also enquires into the cases of violation

of child rights and makes recommendation of proceedings of such cases.

(ii) The Commission submits it annual and periodic reports to the Central government.

(iii) The Commission examines all the negative factors that may put obstacles in the enjoyment of rights by the children and recommends appropriate solutions.

(iv) The Commission undertakes and promotes research in the filed of child rights. It also works for spreading awareness regarding child rights among different sections of the society. The Commission also encourages incorporation of child rights into the school curriculum, promotes training of teachers or personnel dealing with children.

Ans. to Q. No. 7: Poverty, lack of education.

Ans. to Q. No. 8: (i) Ban on the employment of children i.e, those who haven't completed their fourteenth years, in specified occupations;

(ii) Lay down a procedure to decide modifications to the schedule of banned occupation and processes.



14.9 POSSIBLE QUESTIONS

A) Very Short Questions

Q. 1: State the provisions of Article 24 of the Indian Constitution.

Q. 2: Which amendment of the Indian Constitution had made the right to education a fundamental right?

Q. 3: In which year was the Prohibition of Child Marriage Act enacted?

B) Short Questions (Answer each question in about 150 words)

Q. 1: Write a note on the problem of child labour in India.

Q. 2: Write four objectives of the Child Labour (Prohibition and Regulation) Act, 1986.

Q. 3: Give some measures to eradicate the problem of child labour in India.

C) Long Questions (Answer each question in about 300-500 words)

Q. 1: Explain the various constitutional provisions to protect and promote rights of children.

Q. 2: Discuss the role of the Indian Parliament in safeguarding children rights of the children.

Q. 3: Explain various functions of the National Commission for Protection of Child Rights.

Q. 4: Examine the problem of child labour in India. What are its main causes?

Q. 5: Analyse the role of the Indian Constitution and the Parliament in dealing with the problem of child labour.

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UNIT 15: CONFLICT AND HUMAN RIGHTS VIOLATION IN INDIA

UNIT STRUCTURE

15.1 Learning Objectives

15.2 Introduction

15.3 Human Rights Violation in Conflict Situation

15.4 Role of the State in the Situation of Conflict Induced Human Rights Violation

15.5 Non-State Agencies and the Issue of Violation of Human Rights in Conflict Situation

15.6 Let Us Sum Up

15.7 Further Reading

15.8 Answers to Check Your Progress

15.9 Possible Questions

15.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- elaborate the human rights violation cases in different conflict prone areas of India
- explain the role of State during conflict induced human rights violation situation
- analyse the role of Non-state agencies during violation of human rights in conflict situation.

15.2 INTRODUCTION

In the global context though the prospect of inter-state war has been reducing in the post-cold war phenomena, but armed conflict has been proliferating in different regions of the world and the state of India is also not exception in this regard. The Indian society has been experiencing conflict situation ever since independence. Different disturbing regions like Jammu and Kashmir, Northeast India, etc. have been experiencing armed

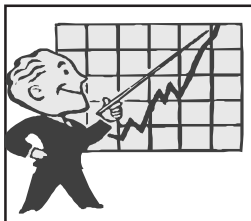
conflict since last seven decades. Armed conflict has its roots mainly in the urge of protecting the indigenous identity, lack of economic development, religious intolerance, majority-minority clashes, etc. All these conflicts have created a culture of violence in the state and have caused greater insecurity and gross human rights violation for the common people. In this unit, we shall examine role of the state and non-state agencies in the conflict induced human rights violation situation.

15.3 HUMAN RIGHTS VIOLATION IN CONFLICT SITUATION

In contemporary time, armed conflict has adversely affected various aspects of the society and lives of the people; their security and rights are seriously endangered by it. Conflict have claimed and affected lives of millions worldwide. People living in violent conflict zones have to suffer multiple troubles from all sides. In fact, we may say that the most palpable cost of armed conflict is the threat to human existence. In different parts of India, armed movements led by various ethnic groups have created a culture of violence. The straight forward violent conflict between the armed groups and the state armed forces has affected the way of life of ordinary people. Late Edward Azar studied a large number of violent conflicts in 1990s and he identified a class of conflict which he named 'Protracted Social Conflict (PSC)'. These types of violent conflicts particularly belong to identity related needs of ethno-religious and ethno-national groups. All kinds of violent activities have negative impact on the life of the individuals as well as on the nation. The rights and dignity of human being has been severely affected during the time of any forms of conflict.

Violent conflicts undermine the whole issue of human rights. Due to large scale violent conflict, common civilian have to live an insecure life residing in the conflict zones. There are increased numbers of human rights violation cases that are going on and the state mechanism tries to cope-up with the situation. The gross human rights violation cases in different conflict situation urge for the rigorous re-examination of the

existing state mechanism which undermine certain human rights norms in diverse socio-political context. Ethnic upsurge, communal violence, revivalism of religions, voices of marginalised people, assertion of cultures, etc. are the finest expression of ethnicity. In the context of North East India, the kind of contentious politics that basically reflect the issues like ethnic minority and religious minority have to face a lot of troublesome periods which result in gross violation of human rights. In a number of parts of India, violent conflicts are going on and this has led to serious insecurity for the people.



CHECK YOUR PROGRESS

Q. 1: What is Protracted Social Conflict (PSC)?

.....

.....

Q. 2: In North east India conflict is basically associated with the issue of …….. (fill in the blank).

15.4 ROLE OF THE STATE IN THE SITUATION OF CONFLICT INDUCED HUMAN RIGHTS VIOLATION

The increased numbers of conflicts have resulted in gross human rights violation and human insecurity. National oppression, insurgency, military repression, ethnic violence, protracted social conflicts, etc. are the main causes for the violation of human rights. Both insurgency and counter insurgency methods adopted by the state have affected human rights and human security of the common people in varying degrees. During conflict situation between the state and non-state actors, civilians living in the conflict zone are frequently used as pawns and asylum-givers at gunpoint by the non-state actors and as informers and collaborators by the security agencies. The trauma of exposure to violence and brutal death has emotionally affected generations of young people, growing up in brutal conflict situations, for the rest of their lives. In the name of 'armed struggle'

non-state actors engage themselves in gross human rights violations. Under such circumstances, the state wants to response. The institutional mechanism becomes more aggressive while dealing with such kind of counter insurgent activities. For instance, in the context of North East India, Government has deployed huge number of security forces in order to counter insurgent activities by various militant forces. The security forces including the army do indulge in activities which lead to gross violation of human rights. Armed Forces Special Power Act is considered to be one of the major instruments of violation of human rights in North East India. Security forces often detain persons on suspicion, torture them to extract confessions or kill them in fake encounters which are definitely the cases of gross violation of human rights.

In India, excessive use of force during counter-insurgency operations has led to the extra-judicial killings of many people in different regions by the security forces. The activities of the security forces indicate a fragrant violation of Article 3 of the UDHR which states that everyone has the right to life, liberty and security of person. The operation of a number of oppressive laws like National Security Act 1980 (NSA), Armed Forces Special Powers Act 1958, Section 144 of the Criminal Procedure Code have been curtailing the human rights of the people of North East India in general and Assam in particular. AFSPA allows security personnel to arrest anybody on the basis of suspicion and on the other, denies people the space to air their grievances to be heard. Those who are captured by the army, mostly civilians, are victims of so inhuman treatment that many a times this leads to the death of innocent people. Many innocent people have lost their mental balance because of the inhuman torture by the security forces. Inhuman torture also leads to dislocation of normal life, fear psychosis among people. Counter-insurgency methods have also created great insecurity for women as well. Many women are being raped by the army in the name of search operation. The violent acts like sexual harassment, physical abuse have resulted in deep psychological and emotional trauma. Development activities have also been severely affected as the State has been preoccupied with counter insurgency. Resources

originally allotted for developmental activities are diverted to be spent for armed forces and hence there is little economic progress. It is disheartening to note that the Protection of Human Rights Act does not empower the National Human Rights Commission and State Human Rights Commissions to take up complaints of human rights violation caused by army and paramilitary forces. In fact, it is a serious blow to the human rights movement in India.

Since conflicts are the expressions of opposing interest, in today's globalized world organized violence has made a paradigmatic shift from inter-state conflict to intra-state conflict for which the number of human rights violation cases are increasing day by day in different parts of the world and more specifically in the context of India. Johan Galtung, the founder of Peace Research Institute, rightly proposed that conflict can be viewed as a triangle with contradiction, attitude and behaviour at its point- contradiction is underlying condition of conflict, attitude includes parties' perception of each other and behaviour includes co-operation and coercion. Galtung argued that conflict resolution must involve all three components of the triangle- reduction of violent behavior, a change in attitude and a transformation in the relationship or clashing interest that are at the core of the conflict structure. But, third world countries like India, has been experiencing different sorts of violent conflict situation in diverse socio-political context which the institutional mechanism fails to tackle. As such, there is a gross violation of human rights that takes places in different conflict prone areas of India in general and Jammu and Kashmir and North East India in particular. In the context of North East India and especially Assam the issue of immigration is considered to be a major cause of conflict. The conflict between indigenous people and immigrants also result in violation of human rights of this marginalised people from both sides. The fear of losing jobs, economic opportunities and other civic amenities through competition generated a sense of anger among the indigenous communities which ultimately results in using violence against the immigrants. Subsequently, there are counter attacks as well from the opposite side which create a culture of violence in the societal context. Both these attack

and counter-attack instances are causes of gross human rights violation in different regions of India in general and North East India in particular. In this critical juncture, the discriminatory attitude on the part of the state institutional mechanism worsens the situation and saga of violent activities spreads in all those disturbing areas. The State mechanism sometimes in the name of controlling the law and order situation, indulge in certain activities which later on turn itself into a part of state sponsored violence. State sponsored violence is one of the major causes of violation of human rights. Misguided and malicious policies can aggravate problems and turn potentially violent situations into deadly confrontations. For example, in BTAD areas of Assam, decades of discriminatory governmental policies with respect to land rights, language, government employment, alienated and radicalized the Bodo community and ultimately led to open rebellion and subsequently civil war in the form of fratricidal killings, ethnic cleansing, etc. The State mechanism need to look at these issues very seriously and accordingly should implement plans and policies beneficial for each and every category of people. The democratic state mechanism must be viable enough to accommodate the diverse characters of the society.

In India, conflict induced human rights violations cases are basically related with the issue of insurgency and counter-insurgency programmes by non-state and state actors respectively. A study on 'Mapping Human Security in Conflict Zones: The Case of North East India' reveals that in the insurgency prone areas, 67.1% of the population is affected by insurgency in different ways. People have to suffer from killing, displacement, loss of home and property, loss or involuntary disappearance of close relatives, poverty, family separation and disintegration, rape and sexual abuse and many others. Under such circumstances, people are constantly living under fear, anxiety and suspicion.

Encounter killings is also a form of violence initiated during the time of conflict and it has violated the rights of the victims. This type of killing is a part of political killing in India. The very idea of 'encounter killing' has developed in India from police practices in dealing with dacoits. Sometimes police use this tactics in order to demoralize the non-state

actor's activities. For instance, when the Naxalites split from the Communist Party of India (Marxist) in 1969 and began a strategy of 'people's war' including the annihilation of 'class enemies', police responded to their campaign of rural and urban terrorism with the help of 'encounter killings' of suspects. Amnesty International, for instance, has received such allegations. There are many claims of encounter killing during army operations in Punjab. During the army assault on the Golden Temple in Amritsar on June 4, 1984, over 1,000 civilians and 100 soldiers were killed (Mohanty, 2000). Many people have died in other forms of political and social violence in India. Thus, the failure of the state mechanism in dealing with conflict situation with appropriate policies have further aggravated the situation in India.

15.5 NON-STATE AGENCIES AND THE ISSUE OF VIOLATION OF HUMAN RIGHTS IN CONFLICT SITUATION

The non-state actors are more responsible for increasing violations of human rights in India. Senseless killings, cold blooded murders, mass homicides in bomb explosions, etc. by the non-state actors are responsible for human rights violation of the common people. Extortion, abduction, harassment to the civilians are the contemporary basic human rights problem in India in general and North East in particular. Factional fighting between breakaway groups has drawn civilians into its crossfire. Again retaliatory killings of family members of surrendered insurgents have also been taking place. The irony is that those very people who claim the human right of self-determination have refused to respect the human rights of the innocent and common people living in the society. On 15 August, 2004, ULFA killed innocent children and women by a bomb blast at Dhemaji. Till date, more than 5000 families have been directly victimised by ULFA's terrorist activities. On October 30, 2008, NDFB killed 89 people in nine coordinated bomb blasts in the districts of Guwahati, Barpeta, Bongaigaon and Kokrajhar. Between 1992 and 2009, 3,867 civilians and 778 security personnel were killed in insurgency related violence. On the other hand,

the number of militants killed in Assam during the same period is 2,621 (Source: www.satp.org). Apart from this, right to freedom of movement has also been seriously hampered due to violent conflict. In conflict prone areas, children are also deprived of right to education. People have to live in an atmosphere of threat, fear and anxiety which leads to severe trauma and psychological illness of the common people.



CHECK YOUR PROGRESS

Q. 3: Mention the name of any one Act prevailing in North East India which leads to gross human rights violation.

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Q. 4: Write briefly about the role of the non-state actors in the situation of conflict induced human rights violation situation.

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Q. 5: In BTAD area of Assam what are the main causes of conflict between the indigenous groups and immigrants?

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.....

Q. 6: Write briefly about Johan Galtung's views on conflict resolution.

.....

.....



15.6 LET US SUM UP

- In contemporary time armed conflict has adversely affected various aspects of the society and lives of the people; their security and rights are seriously endangered by it. Conflict have claimed and affected lives of millions worldwide. People living in violent conflict zones have to suffer multiple troubles from all sides. Infact, we can say that the most palpable cost of armed conflict is the threat to human existence.

- In different parts of India, armed movements led by various ethnic groups have created a culture of violence.
- In conflict situation right to life, security and liberty of persons have been severely violated. Rights of women are also adversely affected in conflict situation. Women have to face physical, sexual and psychological violence during conflict situation. Right to education, and right to freedom of movement are also hampered in conflict situation. People have to live in a state of constant fear , anxiety and insecurity in conflict prone areas.
- In India both the State and non- state actors are responsible for violation of human rights in conflict situation.



15.7 FURTHER READING

1. Agarwal, H.O. (2006). *Human Rights*; Allahabad, Central Law Publications.
2. Sanajoaba, N. (1994): *Human Rights: Principles, Practices and Abuses*; New Delhi: Omsons Publication.
3. Syed, M.H. (2003). *Human Rights: The New Era*; New Delhi: Kilaso Books.
4. Yasin, Adil-ul & Upadhayay Archana (2004): *Human Rights*; New Delhi: Akansha Publishing House.

15.8 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: 'Protracted Social Conflicts (PSC) particularly belong to identity related needs of ethno-religious and ethno-national groups.

Ans. to Q. No. 2: ethnicity.

Ans. to Q. No. 3: Armed Forces Special Powers Act 1958.

Ans. to Q. No. 4: The non-state actors are more responsible for increasing violations of human rights in India. Senseless killings, cold blooded murders, mass homicides in bomb explosions etc by the non state actors are responsible for human rights violation of the common people. Extortion, abduction, harassment to the civilians are the contemporary basic human rights problem in India in general and North East in particular. Factional fighting between breakaway groups has drawn civilians into its crossfire. Again retaliatory killings of family members of surrendered insurgents have also been taken place. The irony is that those very people who claim the human right of self-determination have refused to respect the human rights of the innocent and common people living in the society. Apart from this right to freedom of movement has also been seriously hampered due to violent conflict. In conflict prone areas children are also deprived of right to education. People have to live in an atmosphere of threat, fear and anxiety which leads to severe trauma and psychological illness of the common people.

Ans. to Q. No. 5: In BTAD areas of Assam, decades of discriminatory governmental policies with respect to land rights, language, government employment, alienated and radicalized the Bodo community are the main causes of conflict between the indigenous people and immigrants.

Ans. to Q. No. 6: Johan Galtung, the founder of Peace Research Institute, rightly proposed that conflict can be viewed as a triangle with contradiction, attitude and behavior at its point- contradiction is underlying condition of conflict, attitude includes parties' perception of each other and behavior includes co-operation and coercion. Galtung argued that conflict resolution must involve all three components of the triangle- reduction of violent behavior, a change in attitude and a transformation in the relationship or clashing interest that are at the core of the conflict structure.



15.9 POSSIBLE QUESTIONS

A) Very Short Questions

Q. 1: Who identified the term 'Protracted Social Conflict'?

Q. 2: Write the full form of AFSPA.

B) Short Questions (Answer each question in about 150 words)

Q. 1: Write briefly about Johan Galtung's views on conflict.

Q. 2: Write a note on the National Security Act, 1980.

C) Long Questions (Answer each question in about 300-500 words)

Q. 1: Examine the conditions of human rights of common people in conflict situation.

Q. 2: Discuss the role of the State mechanism in conflict situation in the context of human rights violation.

Q. 3: Examine the role of the non-state actors in the violation of human rights in conflict prone areas.

*** ***** ***



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Dear Learner,

Regarding the course as mentioned above, we would like to know your opinions and comments so as to improve the quality of self learning materials in future. Please respond to the following statements by ticking the number you feel most reflect your opinion. After completion of the additional comments, please detach the page and send/mail the same to us at the address given below.

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1) Approximately how many hours did you spend for studying the units in the course? ☐☐☐

2) Please give your opinions (by ✓ mark) to the following items based on your reading of the block:

Sl. No.	Statements	Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree
I)	The SLMs of the course fulfil the learning objectives set out in the beginning of each unit					
II)	The units of the SLM could satisfy my academic needs and expectations					
III)	The Unit writers have excellent knowledge about the course contents					
IV)	Language and contents of the units were presented at a level which I could readily understand					
V)	Ample opportunity for participation in the activities provided in the units					
VI)	Used enough Illustrations (Diagrams, tables etc.) for conceptual clarity					
VII)	Quality of content is engaging, relevant, and up-to-date					
VIII)	The self check questions are very helpful					
IX)	The Possible/model questions and the answers to check my progress have benefited me a lot					

Additional Comments: *(Please feel free to provide your open comments)*

1) Which aspects of the SLM, according to you, worked well?

.....

.....

2) What sort of changes/improvements do you feel KKHSOU could implement to improve the overall quality of the SLM?

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Thank you for taking the time to complete this form.