

HUMAN RIGHTS

UNIT: I - Evolution of Human Rights

Evolution – Definition – Theories of Human Rights - Kinds of Human Rights: Natural, Historical, Moral and Legal. Man's Natural Rights – Magna Carta (1215) Petition of Rights (1627) Lockean Civil Rights – American Human Rights – French Declaration of Human Rights. Human Rights after the II World War

UNIT: II - Universalisation of Human Rights

Genocides and Demand for Human Rights – Universal Declaration of Human Rights - International Covenant on Civil and Political Rights – optional protocol - International Covenant on Economic, Social and Cultural Rights - International Commission on Human Rights. U.N. General Assembly and Human Rights International Court of Justice

UNIT: III – European and Indian Instruments of Human Rights

European Convention on Human Rights - Mexican Declaration - Fundamental rights and Directive Principles

UNIT: IV - Emerging areas of Human Rights

Issues of refugees, Migrants, Women's issues; Female feticide and infanticide – illegal confinements – rapes and deaths under police custody– bonded labour – child labour, traffic in women and minor girls, rights to dissent.

UNIT: V – Human Rights Violations

Human Rights Violations in prison and police stations – Amnesty international court of Justice, National Human Rights Commission – Nongovernmental Organizations, Consumer redressal cells, Peoples Union for Democratic Rights (PUDR)

Prepared by
Dr. K.PAUL DURAICHI M.A., M.Phil., Ph.D.,
Assistant Professor
PG & Research Department of History
V.O.Chidambaram College
Thoothukudi 628008.

UNIT 1

Evolution of Human Rights:

The concept of Human Rights has originated from different schools of thought which are based on different religions, philosophies and different law schools. The foundation of the concept of Human Rights was laid down by all religious traditions like Hinduism, Judaism, Buddhism, Confucianism, Christianity, and Islam irrespective of their differences. All religions practice respect and dignity to all the humans that would result in fraternity, solidarity and the protection of all individuals. On the other hand, the diverse schools of Philosophy including Western thought lay emphasis on the notion of moral justice.

The next stage of human rights revolves around the notion of individual rights, justice, individual liberty and the citizenship of the people under the protection of State. These advancements were part of the five-century transformation which comprises of the Renaissance, the Reformation and the formation of national states, entering into the Enlightenment, the independence of the United States of America and the French Revolution. The third stage involves the establishment of the Universal Declaration of Human Rights in 1948 when the United Nations vowed to provide equality to all people.

This task was accomplished by the Commission on Human Rights, whose main objective was to design a document that will clearly define the human rights and freedoms in the charter. Eleanor Roosevelt was commissioned to perform the task. The Universal Declaration of Human Rights (UDHR) was adopted by 56 members. The Preamble of the United Nations asserts, ‘ recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world.’.

This has been incorporated in the constitution of 185 countries. The declaration also achieved the status of customary international law because people regard it as the bases for establishing a common standard for all people and nations. After the Universal Declaration of Human Rights, the Human Rights Commission drafted two treaties, the International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocol and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Together they are known as the International Bill of

Human Rights. Their main objective is right to life, freedom of speech, voting, and religion which are subsets of a bigger spectrum of Human Rights. In addition to the treaties, there were 20 principle bills that were adopted by the UN which focus on protecting the individuals from torture and genocides. At the same time protect the minorities, women and the vulnerable populations (refugees). The various conventions are:

- The Convention on the Elimination of All Forms of Racial Discrimination
- The Convention on the Prevention and Punishment of the Crime of Genocide
- The Convention on the Political Rights of Women
- The Slavery Convention of 1926.
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Definition of Human Rights:

Human rights are standards that recognize and protect the dignity of all human beings. Human rights govern how individual human beings live in society and with each other, as well as their relationship with the State and the obligations that the State have towards them.

Human rights law obliges governments to do some things, and prevents them from doing others. Individuals also have responsibilities: in using their human rights, they must respect the rights of others. No government, group or individual person has the right to do anything that violates another's rights.

Universality and inalienability:

Human rights are universal and inalienable. All people everywhere in the world are entitled to them. No one can voluntarily give them up. Nor can others take them away from him or her.

Indivisibility:

Human rights are indivisible. Whether civil, political, economic, social or cultural in nature, they are all inherent to the dignity of every human person.

Consequently, they all have equal status as rights. There is no such thing as a 'small' right. There is no hierarchy of human rights.

Inter-dependence and inter-relatedness:

The realization of one right often depends, wholly or in part, upon the realization of others. For instance, the realization of the right to health may depend on the realization of the right to education or of the right to information.

Equality and non-discrimination:

All individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, color, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.

Participation and inclusion:

Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, political, economic, social and cultural development, through which human rights and fundamental freedoms can be realized.

Accountability and rule of law:

States and other duty-bearers must comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator, in accordance with the rules and procedures provided by law.

THEORIES OF HUMAN RIGHTS:

Human rights are a special sort of inalienable moral entitlement. They attach to all people equally, by virtue of their humanity, irrespective of race, nationality, or membership of any particular social group. Human rights belong to an individual as a consequence of being human. The term came into wide use after World War II, replacing the earlier phrase "natural rights," which had been

associated with the Greco-Roman concept of natural law since the end capabilities reflecting the diversity of human circumstances and history. They are convinced of as universal Universality of human rights is controutrisial, applying to all human beings everywhere, and as fundamental, referring to essential or basic human needs.

Classification of Human Rights:

Civil Rights:

The term 'civil rights' is often used with reference to the rights set out in the first eighteen articles of the UDHR, almost all of which are set out as binding treaty norms in the ICCPR. From this group, a further set of 'physical integrity rights' has been indentified, which concern the right to life, liberty and security of the person, and which offer protection from physical violence against the person, torture and inhuman treatment, arbitrary arrest, detention, exile, slavery and servitude, inference with ones privacy and right of ownership, restriction of one's freedom of movement, and the freedom of thought, conscience and religion. The difference between 'basic rights' and 'physical integrity rights' lies in the fact that the former include economic and social rights, but do not include rights such as protection of privacy and ownership. Although not strictly an integrity right, the right to equal treatment and protection in law certainly qualifies as a civil right. Moreover, this right plays an essential role in the realisation of economic, social and cultural rights. Another group of civil rights is referred to under the collective term 'due process rights'.

Political Rights:

In general, political rights are those set out in Articles 19 to 21 of the UDHR and also codified in the ICCPR. They include freedom of expression, freedom of association and assembly, the right to take part in the government of one's country, and the right to vote and stand for election at genuine periodic elections held by secret ballot.

Economic Rights:

The economic and social rights are listed in Articles 22 to 26 of the UDHR, and further developed and set out as binding treaty norms in the ICESCR. These

rights provide the conditions necessary for prosperity and wellbeing. Economic rights refer, for example, to the right to property, the rights to work, which one freely chooses or accepts, the right to fair wage, a reasonable limitation of working hours, and trade union rights. Social rights are those rights necessary for an adequate standard of living, including rights to health, shelter, food, social care, and the right to education.

Cultural Rights:

The UDHR lists cultural rights in Articles 27 and 28. These include the right to participate freely in the cultural life of the community, to share in scientific, literary or artistic production of which one is the author.

Main Features of Human Rights:

1. Rights exist only in society. These are the products of social living.
2. Rights are claims of the individuals for their development in society.
3. Rights are recognized by the society as common claims of all the people.
4. Rights are rational and moral claims that the people make on their society.
5. Since rights are here only in society, these cannot be exercised against the society.
6. Rights are to be exercised by the people for their development which really means their development in society by the promotion of social good. Rights can never be exercised against social good.
7. Rights are equally available to all the people.
8. The contents of rights keep on changing with the passage of time.
9. Rights are not absolute. These always bear limitations deemed essential for maintaining public health, security, order and morality.

Kinds of Human Rights:

The idea of equality of all human beings by birth having equal natural rights that may be set in law is going back to the beginning of history of human

civilisation, rooted in historical past and is associated with the struggle of individuals against injustice. Although the term 'human rights' is relatively recent, the concept that an individual possesses certain basic, inalienable rights as against a sovereign State had its origin in the principles of Natural Law and Natural Rights or the Rights of Man (Cranston, 1962).

1. Natural law:

The concept of Natural Law originated in ancient Greece. Under this concept an individual's rights arise from nature and therefore cannot be given or assigned by the political powers. The core principle of Natural Law is the principle of morality and therefore close connection exists between the law and morality. The idea of the state centred on equality for all its citizens arising from the law of nature was expressed by many ancient Greek philosophers.

Many ideas on rights, equality, justice and laws initially outlined by ancient Greek philosophers like Socrates and Plato were further developed by Aristotle (384-322 BC).

Aristotle:

Aristotle's work on natural law is reflected in Nicomachean Ethics, some opening passages of the Politics, and Chapters 10, 13, and 15 of the first book of the Rhetoric.

In Aristotle's view political justice is possible only between free and equal citizens; he supports the individual's and private property rights. Aristotle advocates an idea of natural right or the 'right by nature' that does not need a legislative framework, laws and agreements as the natural rights exist separately from the norms established by humans.

Aristotle's ideas and teaching paved the way for other thinkers and philosophers who expanded on ideas of Natural Law.

Thomas Aquinas:

Thomas Aquinas, an Italian theologian, whose works advanced the theory of natural law in the 13th century in Europe. Although Aquinas never uses the term human rights and did not develop a theory of human rights, he has conceptualized

Aristotelian teachings on natural law and justice. According to Aquinas, in analysis derived from Aristotle's work, justice exists in two kinds: justice that is natural and justice that is positive. The natural justice exists by the nature of the case and positive justice exists as a relationship between individuals or between the citizen and the state.

2. Historical Development Of Human Rights:

The history of human rights covers thousands of years and draws upon religious, cultural, philosophical and legal developments throughout the recorded history. It seems that the concept of human rights is as old as the civilization. This is evident from the fact that almost at all stages of mankind there have been a human rights documents in one form or the other in existence. Several ancient documents and later religious and philosophies included a variety of concepts that may be considered to be human rights. Notable among such documents are the Edicts of Ashoka issued by Ashoka the Great of India between 272-231 BC and the Constitution of Medina of 622 AD, drafted by Muhammad to mark a formal agreement between all of the significant tribes and families of Yathrib (later known as Medina). However, the idea for the protection of human rights grew after the tragic experiences of the two world wars. Prior to the world war, there was not much codification done either at the national or the international levels for the protection and implementation of human rights.

This paper seeks to analyse the concept and approaches of human rights and its development even before the Greek times. In this regard, the period has been classified as pre world wars and post war eras. The latter has been further divided into normative foundation, institution building and stage of implementation. Several important documents like Magna Carta, French Declaration of the Rights of Man, UDHR, ICCPR etc. and a brief discussion of various approaches to human rights have been mentioned.

3. Moral Right:

The term "moral rights" is a translation of the French term "Droit Moral," and refers not to "morals" as advocated by the religious right, but rather to the ability of authors to control the eventual fate of their works. An author is said to have the "moral right" to control his/her work. The concept of moral rights thus

relie: on the connection between an Author and his/her creation. More rights protect the personal and reputational, rather than purely monetary, the value of a work to its creator. Moral Rights are those rights which are based on human consciousness. They are backed by the moral force of the human mind. These are based on the human sense of goodness and justice. These are not backed by the force of law. Sense of goodness and public opinion are the sanctions behind moral rights.

If any person violates any moral right, no legal action can be taken against him. The state does not enforce these rights. Courts of Law do not recognize these rights. Moral Rights include rules of good conduct, courtesy, and moral behaviour. These stand for the moral perfection of the people.

Moral rights were first acknowledged in France and Germany before they were included in the Berne Convention for the Protection of Literary and Artistic Works in 1928. Canada recognized moral rights in its copyright Act. The United States became a signatory to the Convention in 1989 and incorporated a version of moral rights under its copyright law under Title 17 of the U.S. Code.

There are two major moral rights under the U.S. Copyright Act. These are the right of attribution, also called the right of paternity, and the right of integrity.

4. Legal Right:

Civil Rights: Civil rights are those rights that provide an opportunity for each person to lead a civilized social life. These fulfill the basic needs of human life in society. Civil rights are a class of rights that protect individuals' freedom from infringement by governments, social organizations, and private individuals, and which ensure one's ability to participate in the civil and political life of the society and state without discrimination or repression. They enable a person to live a dignified life. Civil rights include the right to life, liberty, and security, the right to privacy, freedom of movement, freedom of thought, conscience, and religion.

Political Rights: Political rights are those basic rights that allow an individual to participate directly or indirectly in the political activities of the state. These enable them to take an active part in the political process. These rights include the right to vote, the right to get elected, the right to hold public office, and

the right to criticize and oppose the government. Political rights are really available to the people in a democratic state.

Economic Rights: Economic rights are those rights that provide economic security to the people. These enable all citizens to make proper use of their civil and political rights. The basic needs of every person are related to his food, clothing, shelter, medical treatment, etc. Without the fulfillment of these, no person can really enjoy his civil and political rights. It is therefore essential, that every person must get the right to work, right to adequate wages, right to leisure and rest, and right to social security in case of illness, physical disability, and old age.

Man's Natural Rights:

The writings of Thomas Jefferson, Samuel Adams, and Thomas Paine made the natural rights theory a powerful justification for revolution. The classic expressions of natural rights are the English Bill of Rights (1689), the American Declaration of Independence (1776), the French Declaration of the Rights of Man and the Citizen (1789), the first 10 amendments to the Constitution of the United States (known as the Bill of Rights, 1791), and the Universal Declaration of Human Rights of the United Nations (1948).

The concept of Natural Rights emerged from the Natural Law in the era of Renaissance Humanism in the early modern period. During 18th century 'Age of Enlightenment' the Natural Rights theory was conceptualised by

1. Thomas Hobbes
2. John Locke
3. Jean-Jacques Rousseau
4. Jeremy Bentham

1. Thomas Hobbes was the first who formulated the theory of 'natural rights'. He adopts the Aristotle's position on the matter of equality between humans, stating that: 'The question who is the better man has no place in the condition of mere nature, where (as has been shown before) all men are equal. The inequality that now is has been introduced by the laws civil' (Hobbes, 1651).

2. John Locke, an English philosopher and creator of classical liberalism, describes a 'state of nature' where the natural rights belong to each individual citizen,

including right to life, liberty and property. The natural rights also implied a principle of universality. John Locke developed the idea in his book, 'Two Treatises of Government'. He argued that no governmental authority has power to deprive individuals of these rights because they exist before and separate to the creation of the civil or political society.

3. Jean-Jacques Rousseau had adopted and conceptualised many of Locke's ideas on the Natural Law that eventually became the basis for the French Declaration of the Rights of Man and of the Citizen 1789. Rousseau proclaims in his book 'The Social Contract' that 'MAN is born free; and everywhere he is in chains. Rousseau also uses terms such as 'inalienability' and 'indivisibility' when talking about the Sovereign (a person or a group of persons that hold the highest power in the state; it also applies to the legislator).

4. Jeremy Bentham:

Legal positivism, as a critique of Natural Law rose to prominence in 18th and 19th century and was articulated by Jeremy Bentham. Bentham wrote in 'Anarchical Fallacies': 'Right is a child of law; from real laws come real rights, but from imaginary law, from 'Laws of nature', come imaginary rights...'.

Magna Carta (1215) :

The Magna Carta, or "Great Charter," was arguably the most significant early influence on the extensive historical process that led to the rule of constitutional law today in the English-speaking world.

In 1215, after King John of England violated a number of ancient laws and customs by which England had been governed, his subjects forced him to sign the Magna Carta, which enumerates what later came to be thought of as human rights. Among them was the right of the church to be free from governmental interference, the rights of all free citizens to own and inherit property and to be protected from excessive taxes. It established the right of widows who owned property to choose not to remarry, and established principles of due process and equality before the law. It also contained provisions forbidding bribery and official misconduct.

Widely viewed as one of the most important legal documents in the development of modern democracy, the Magna Carta was a crucial turning point in the struggle to establish freedom.

Petition of Right (1628):

The next recorded milestone in the development of human rights was the Petition of Right, produced in 1628 by the English Parliament and sent to Charles I as a statement of civil liberties. Refusal by Parliament to finance the king's unpopular foreign policy had caused his government to exact forced loans and to quarter troops in subjects' houses as an economy measure. Arbitrary arrest and imprisonment for opposing these policies had produced in Parliament a violent hostility to Charles and to George Villiers, the Duke of Buckingham.

The Petition of Right, initiated by Sir Edward Coke, was based upon earlier statutes and charters and asserted four principles:

- (1) No taxes may be levied without consent of Parliament,
- (2) No subject may be imprisoned without cause shown (reaffirmation of the right of habeas corpus),
- (3) No soldiers may be quartered upon the citizenry,
- (4) Martial law may not be used in time of peace.

Lockean civil Rights :

Declaration of Independence from the writings of English philosopher John Locke. Locke wrote his Second Treatise of Government in 1689 at the time of England's Glorious Revolution, which overthrew the rule of James II.

Locke wrote that all individuals are equal in the sense that they are born with certain "inalienable" natural rights. That is, rights that are God-given and can never be taken or even given away. Among these fundamental natural rights, Locke said, are "life, liberty, and property."

Locke believed that the most basic human law of nature is the preservation of mankind. To serve that purpose, he reasoned, individuals have both a right and a

duty to preserve their own lives. Murderers, however, forfeit their right to life since they act outside the law of reason.

Locke also argued that individuals should be free to make choices about how to conduct their own lives as long as they do not interfere with the liberty of others. Locke therefore believed liberty should be far-reaching.

Property :

By “property,” Locke meant more than land and goods that could be sold, given away, or even confiscated by the government under certain circumstances. Property also referred to ownership of one’s self, which included a right to personal well being. Jefferson, however, substituted the phrase, “pursuit of happiness,” which Locke and others had used to describe freedom of opportunity as well as the duty to help those in want.

The purpose of government, Locke wrote, is to secure and protect the God-given inalienable natural rights of the people. For their part, the people must obey the laws of their rulers. Thus, a sort of contract exists between the rulers and the ruled. But, Locke concluded, if a government persecutes its people with “a long train of abuses” over an extended period, the people have the right to resist that government, alter or abolish it, and create a new political system.

Jefferson adopted John Locke’s theory of natural rights to provide a reason for revolution. He then went on to offer proof that revolution was necessary in 1776 to end King George’s tyranny over the colonists.

American Human Rights :

Everyone born in this world have human rights that must be protected by the law. According to United Nations, there are 30 basic human rights that recognised around the world. Let’s look at 7 of the most fundamentals

1. The right to life

This means that nobody, including the Government, can try to end your life. It also means the Government should take appropriate measures to safeguard life by making laws to protect you and, in some circumstances, by taking steps to protect you if your life is at risk.

2. The right to marry and have family

Everyone has the right to marry and to have a family. The exercise of this right is closely linked with the right to respect for private and family life protected by Article 8.

3. The right to equal treatment before the law

Every person has the right to recognition as a person before the law. Every person has the right to enjoy the person's human rights without discrimination.

Every person is equal before the law and is entitled to the equal protection of the law without discrimination. Every person has the right to equal and effective protection against discrimination.

4. The right to privacy

Privacy is an essential way we seek to protect ourselves and society against arbitrary and unjustified use of power, by reducing what can be known about us and done to us, while protecting us from others who may wish to exert control.

5. The right to freedom of thought, religion, opinion, and expression

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching practice and observance.

6. The right to work

The right to work is the concept that people have a human right to work, or engage in productive employment, and should not be prevented from doing so

7. The right to education

Education is a basic human right for all and is important for everyone to make the most of their lives. Every person is entitled to a quality education without discrimination, which means:

A compulsory free primary school education for every child

Secondary school (including technical training) must be available to everyone – states must work towards providing this for free

Everyone has the right to life, liberty, and personal security. Freedom from persecution, access to education, health-care and decent living conditions are all fundamental human rights. Prime Production provides services to numerous specialised agencies who are dedicated to the rights of citizens around the world. If you have a similar message to share, contact Prime Production now for a free, non-obligatory quote.

The protection of fundamental human rights was a foundation stone in the establishment of the United States over 200 years ago. Since then, a central goal of U.S. foreign policy has been the promotion of respect for human rights, as embodied in the Universal Declaration of Human Rights.

Supporting democracy not only promotes such fundamental American values as religious freedom and worker rights, but also helps create a more secure, stable, and prosperous global arena in which the United States can advance its national interests. In addition, democracy is the one national interest that helps to secure all the others. Democratically governed nations are more likely to secure the peace, deter aggression, expand open markets, promote economic development, protect American citizens, combat international terrorism and crime, uphold human and worker rights, avoid humanitarian crises and refugee flows, improve the global environment, and protect human health.

The United States uses a wide range of tools to advance a freedom agenda, including bilateral diplomacy, multilateral engagement, foreign assistance, reporting and public outreach, and economic sanctions. The Department of State works with democratic partners, international and regional organizations, nongovernmental organizations, and engaged citizens to support those seeking freedom.

French human Rights:

The representatives of the French people, organized as a National Assembly, believing that the ignorance, neglect, or contempt of the rights of man are the sole cause of public calamities and of the corruption of governments, have determined to set forth in a solemn declaration the natural, unalienable, and sacred rights of man, in order that this declaration, being constantly before all the members of the Social body, shall remind them continually of their rights and duties; in order that the acts of the legislative power, as well as those of the executive power, may be compared at any moment with the objects and purposes of all political institutions and may thus be more respected, and, lastly, in order that the grievances of the citizens, based hereafter upon simple and incontestable principles, shall tend to the maintenance of the constitution and redound to the happiness of all. Therefore the National Assembly recognizes and proclaims, in the presence and under the auspices of the Supreme Being, the following rights of man and of the citizen:

Articles:

1. Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good.
2. The aim of all political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression.
3. The principle of all sovereignty resides essentially in the nation. No body nor individual may exercise any authority which does not proceed directly from the nation.
4. Liberty consists in the freedom to do everything which injures no one else; hence the exercise of the natural rights of each man has no limits except those which assure to the other members of the society the enjoyment of the same rights. These limits can only be determined by law.
5. Law can only prohibit such actions as are hurtful to society. Nothing may be prevented which is not forbidden by law, and no one may be forced to do anything not provided for by law.
6. Law is the expression of the general will. Every citizen has a right to participate personally, or through his representative, in its foundation. It must be the same for all, whether it protects or punishes. All citizens, being

equal in the eyes of the law, are equally eligible to all dignities and to all public positions and occupations, according to their abilities, and without distinction except that of their virtues and talents.

7. No person shall be accused, arrested, or imprisoned except in the cases and according to the forms prescribed by law. Any one soliciting, transmitting, executing, or causing to be executed, any arbitrary order, shall be punished. But any citizen summoned or arrested in virtue of the law shall submit without delay, as resistance constitutes an offense.
8. The law shall provide for such punishments only as are strictly and obviously necessary, and no one shall suffer punishment except it be legally inflicted in virtue of a law passed and promulgated before the commission of the offense.
9. As all persons are held innocent until they shall have been declared guilty, if arrest shall be deemed indispensable, all harshness not essential to the securing of the prisoner's person shall be severely repressed by law.
10. No one shall be disquieted on account of his opinions, including his religious views, provided their manifestation does not disturb the public order established by law.
11. The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law.
12. The security of the rights of man and of the citizen requires public military forces. These forces are, therefore, established for the good of all and not for the personal advantage of those to whom they shall be intrusted.
13. A common contribution is essential for the maintenance of the public forces and for the cost of administration. This should be equitably distributed among all the citizens in proportion to their means.
14. All the citizens have a right to decide, either personally or by their representatives, as to the necessity of the public contribution; to grant this freely; to know to what uses it is put; and to fix the proportion, the mode of assessment and of collection and the duration of the taxes.

15. Society has the right to require of every public agent an account of his administration.
16. A society in which the observance of the law is not assured, nor the separation of powers defined, has no constitution at all.
17. Since property is an inviolable and sacred right, no one shall be deprived thereof except where public necessity, legally determined, shall clearly demand it, and then only on condition that the owner shall have been previously and equitably indemnified.

Human Rights after Second World War:

Precursors of 20th Century Human Rights Documents:

Documents asserting individual rights, such as the Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791) are the written precursors to many of today's human rights documents. Yet many of these documents, when originally translated into policy, excluded women, people of color, and members of certain social, religious, economic, and political groups. Nevertheless, oppressed people throughout the world have drawn on the principles these documents express to support revolutions that assert the right to self-determination.

Efforts in the 19th century to prohibit the slave trade and to limit the horrors of war are prime examples. In 1919, countries established the International Labor Organization (ILO) to oversee treaties protecting workers with respect to their rights, including their health and safety.

The Universal Declaration of Human Rights:

Member states of the United Nations pledged to promote respect for the human rights of all. To advance this goal, the UN established a Commission on Human Rights and charged it with the task of drafting a document spelling out the meaning of the fundamental rights and freedoms proclaimed in the Charter. The Commission, guided by Eleanor Roosevelt's forceful leadership, captured the world's attention.

On December 10, 1948, the Universal Declaration of Human Rights (UDHR) was adopted by the 56 members of the United Nations. The vote was unanimous, although eight nations chose to abstain.

The UDHR, commonly referred to as the international Magna Carta, extended the revolution in international law ushered in by the United Nations Charter – namely, that how a government treats its own citizens is now a matter of legitimate international concern, and not simply a domestic issue. It claims that all rights are interdependent and indivisible.

The Human Rights Covenants:

With the goal of establishing mechanisms for enforcing the UDHR, the UN Commission on Human Rights proceeded to draft two treaties: the International Covenant on Civil and Political Rights (ICCPR) and its optional Protocol and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Together with the Universal Declaration, they are commonly referred to as the International Bill of Human Rights. The ICCPR focuses on such issues as the right to life, freedom of speech, religion, and voting. The ICESCR focuses on such issues as food, education, health, and shelter. Both covenants trumpet the extension of rights to all persons and prohibit discrimination.

As of 1997, over 130 nations have ratified these covenants. The United States, however, has ratified only the ICCPR, and even that with many reservations, or formal exceptions, to its full compliance.

Subsequent Human Rights Documents:

In addition to the covenants in the International Bill of Human Rights, the United Nations has adopted more than 20 principal treaties further elaborating human rights. These include conventions to prevent and prohibit specific abuses like torture and genocide and to protect especially vulnerable populations, such as refugees (Convention Relating to the Status of Refugees, 1951), women (Convention on the Elimination of All Forms of Discrimination against Women,

1979), and children (Convention on the Rights of the Child, 1989). As of 1997 the United States has ratified only these conventions:

- The Convention on the Elimination of All Forms of Racial Discrimination
- The Convention on the Prevention and Punishment of the Crime of Genocide
- The Convention on the Political Rights of Women
- The Slavery Convention of 1926
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

In Europe, the Americas, and Africa, regional documents for the protection and promotion of human rights extend the International Bill of Human Rights. For example, African states have created their own Charter of Human and People's Rights (1981), and Muslim states have created the Cairo Declaration on Human Rights in Islam (1990). The dramatic changes in Eastern Europe, Africa, and Latin America since 1989 have powerfully demonstrated a surge in demand for respect of human rights. Popular movements in China, Korea, and other Asian nations reveal a similar commitment to these principles.

UNIT II

Genocide:

Origin of the Term Genocide:

The word “genocide” did not exist prior to 1944. It is a very specific term coined by a Polish-Jewish lawyer named Raphael Lemkin (1900–1959) who sought to describe Nazi policies of systematic murder during the Holocaust, including the destruction of European Jews. He formed the word genocide by combining geno-, from the Greek word for race or tribe, with -cide, from the Latin word for killing.

The Term “Genocide”:

The term “genocide” did not exist before 1944. It is a very specific term, referring to violent crimes committed against groups with the intent to destroy the existence of the group. Human rights, as laid out in the US Bill of Rights or the 1948 United Nations Universal Declaration of Human Rights, concern the rights of individuals.

In 1944, Polish Jewish lawyer Raphael Lemkin (1900-1959) coined the term “genocide” in a book documenting Nazi policies of systematically destroying national and ethnic groups, including the mass murder of European Jews. He formed the word by combining geno-, from the Greek word for race or tribe, with -cide, from the Latin word for killing. Noting that the term denoted “an old practice in its modern development,” Lemkin defined genocide as “a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves.” The next year, the International Military Tribunal held at Nuremberg, Germany, charged top Nazis with “crimes against humanity.” The word “genocide” was included in the indictment, but as a descriptive, not legal, term.

Genocide is an internationally recognized crime where acts are committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. These acts fall into five categories:

- Killing members of the group
- Causing serious bodily or mental harm to members of the group
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
- Imposing measures intended to prevent births within the group
- Forcibly transferring children of the group to another group

There are a number of other serious, violent crimes that do not fall under the specific definition of genocide. They include crimes against humanity, war crimes, ethnic cleansing, and mass killing.

Genocide as an International Crime:

On December 9, 1948, the United Nations approved a written international agreement known as the Convention on the Prevention and Punishment of the Crime of Genocide. This convention established genocide as an international crime, which signatory nations “undertake to prevent and punish.” Preventing genocide, the other major obligation of the convention, remains a challenge that nations, institutions, and individuals continue to face.

As outlined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention), genocide occurs when State or non-State actors commit serious offenses against members of a particular national, ethnic, racial, or religious group with the intent to destroy the group. Genocide is one of the most serious crimes against humankind. Raphael Lemkin, who first coined the term “genocide” and whose advocacy led governments to adopt the Genocide Convention, characterized genocide as a violation of these groups’ basic “right to exist and to develop ... as free members of international society.”

The obligation to prevent genocide means that States have to ensure that no one acting under official authority commits acts constituting Genocide. States also have an obligation to protect people from suffering from genocidal acts committed by private actors in areas under the state’s control. The obligation to protect people against genocide can also extend to private (non-State) actors not under government control, particularly if they control territory.

In order to effectively fulfill the obligation to prevent genocide, States must (1) take steps to ensure that they are able to detect a risk of genocide when it emerges and (2) once a risk has been detected, respond to the presence of the risk by taking actions to mitigate it.

The International Court of Justice has elaborated on these obligations. In its Case Concerning application of the Convention on the Prevention and Punishment of the Crime of Genocide, it has said once a risk of genocide has been detected, States have an obligation to employ all means reasonably available to prevent it from taking place.

This Manual aims to assist States to fulfill both aspects of the obligation to prevent genocide—to detect and to respond, and particularly in situations where a risk of genocide is signaled in part by the commission of human rights violations against members of one of the group identities protected by the Genocide Convention (national, ethnic, racial, or religious groups, referred to here as “members of a particular group”).

Universal Declaration of Human Rights:

The Universal Declaration of Human Rights (UDHR) 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 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages. The UDHR is widely recognized as having inspired, and paved the way for, the adoption of more than seventy human rights treaties, applied today on a permanent basis at global and regional levels (all containing references to it in their preambles).

Preamble:

- Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

- Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,
- Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,
- Whereas it is essential to promote the development of friendly relations between nations,
- Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,
- Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,
- Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

Everyone has the right to freedom of movement and residence within the borders of each state.

Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

Everyone has the right to seek and to enjoy in other countries asylum from persecution.

This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

Everyone has the right to a nationality.

No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

Marriage shall be entered into only with the free and full consent of the intending spouses.

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

Everyone has the right to own property alone as well as in association with others.

No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

Everyone has the right to freedom of peaceful assembly and association.

No one may be compelled to belong to an association.

Article 21

Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

Everyone has the right of equal access to public service in his country.

The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

- Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- Everyone, without any discrimination, has the right to equal pay for equal work.
- Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

- Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

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 control.

Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

Everyone has duties to the community in which alone the free and full development of his personality is possible.

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Women Who Shaped the Declaration:

Women delegates from various countries played a key role in getting women's rights included in the Declaration. Hansa Mehta of India is widely credited with changing the phrase "All men are born free and equal" to "All human beings are born free and equal" in Article 1 of the Universal Declaration of Human Rights.

International Covenant on civil and political rights:

The ICCPR is a key international human rights treaty, providing a range of protections for civil and political rights. The ICCPR, together with the Universal Declaration of Human Rights and the International Covenant on Economic Social and Cultural Rights, are considered the International Bill of Human Rights. The ICCPR obligates countries that have ratified the treaty to protect and preserve basic human rights, such as:

- the right to life and human dignity;
- equality before the law;
- freedom of speech, assembly, and association;
- religious freedom and privacy;
- freedom from torture, ill-treatment, and arbitrary detention;
- gender equality;
- the right to a fair trial;
- right family life and family unity;
- minority rights.

The Covenant compels governments to take administrative, judicial, and legislative measures in order to protect the rights enshrined in the treaty and to provide an effective remedy. The Covenant was adopted by the U.N. General Assembly in 1966 and came into force in 1976. As of December 2018, 172 countries have ratified the Covenant.

Human Rights Committee:

The Human Rights Committee was established to monitor the implementation of the ICCPR. It is composed of 18 independent experts with recognized competence in the field of human rights. Committee members are elected for a term of four years and must be from countries that have ratified the Covenant. As of January 2019, members of the Committee come from: Albania, Canada, Chile, Egypt, France, Germany, Greece, Guyana, Israel, Japan, Latvia, Mauritania, Paraguay, Portugal, Slovenia, South Africa, Tunisia, and Uganda.

Function of the Human Rights Committee:

The Human Rights Committee meets three times a year for sessions lasting three weeks at the United Nations Office in Geneva, Switzerland. Countries that have ratified the ICCPR are obliged to report to the Committee every four years. Three to five countries are invited to present their reports at each session which is open to the public and is usually live streamed. The Committee examines the report and addresses its concerns and recommendations to the country in the form of “concluding observations.” The Committee also publishes general comments which are its interpretation of the content of the treaty’s human rights provisions.

Submission of Reports:

The U.S. submitted several reports including its initial report in 1994, 2nd and 3rd periodic reports in 2005 and the most recent 4th periodic report was submitted in December 2011. While using an inter-agency process, the U.S. Department of State is responsible for drafting the reports and coordinating U.S. government responses and appearance before the Human Rights Committee. Typically, the State Department will also bring high level representatives from other governmental agencies as well as state and local governments to attend the treaty review session.

On April 2, 2019, the Committee released the List of Issues Prior to Submission of the Fifth Periodic Report of the United States of America. Since the U.S. agreed, in 2017, to receive a List of Issues Prior to Reporting from the U.N. Human Rights Committee, the U.S. is now expected to begin forming its Fifth Periodic Report in earnest.

Optional Protocol:

The origins of the Optional Protocol can be traced to the creation of an Open-Ended working Group of the Commission of Human Rights on the Optional Protocol to the ICESCR (the Working Group). During the Working Group’s first two sessions in March 2004 and January 2005, as well as during a third session in February 2006, its mandate was to examine ‘the different options regarding the elaboration of an Optional Protocol’ and did not include drafting the Protocol’s text.

This vague mandate resulted in discussions that focused on :

- the need for a communications mechanism;
- the justiciability of economic, social, and cultural rights; and
- the legal Status of the Committee on Economic, Social and Cultural Rights (the Committee).

A breakthrough was achieved with the inauguration of the Human Rights Council in 2006.

The Council's creation reflected a genuine political desire to reinforce the International human rights protection system, apparent in two important decisions the Council took in June 2006 at its first meeting:

- to adopt the UN Declaration on the Rights of Indigenous Peoples, and
- to revise the Working Group's mandate in order to enable it to draft a Protocol.

In 2007 and 2008, the chairperson of the Working Group, Catarina de Albuquerque, Presented several drafts of the Optional Protocol. Participating governments discussed these during the Group's last two sessions in July 2007, and again in February, March, and April 2008. The most controversial subjects, discussed in more detail below, included:

- the range of rights the Protocol would cover;
- the definition of persons and groups authorized to submit communications;
- the conditions under which a communication would be deemed admissible;
- the standard of review that the Committee would employ to determine whether an economic, social, or cultural right had been violated; and
- how the international obligations of states parties to the Covenant would be taken into account.

The majority of governments ultimately favoured an Optional Protocol that would be 'progressive' with regard to victims. This led to successful outcomes for the first four issues. However, the text that the UN finally adopted gives relatively little attention to the international obligations of states parties. It says little about international cooperation and assistance, for example, Even though these obligations are explicitly recognized in the ICESCR.

International Covenant on Economic, Social and Cultural Rights (ICESCR):

The United Nations General Assembly adopted the International Covenant on Economic, Social and Cultural Rights on December 16, 1966. The Covenant entered into force on January 3, 1976. Its Preamble notes that the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”

It has been ratified by 170 countries and has 71 signatories. India acceded to the Covenant on April 10, 1979.

Treaty: International Covenant on Economic, Social and Cultural Rights (ICESCR)

Entered into force: 3 January 1976

Optional Protocol(s): Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR)

Treaty Body: Committee on Economic, Social and Cultural Rights (CESCR)

Location: Geneva

Meetings: Twice per year

Reports to: General Assembly

States must report: Within one year of ratification, and every 5 years. Committee may request more frequent reports if they have specific concerns.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted by the United Nations General Assembly (Resolution 2200 A (XXI)) on 16 December 1966. As one of two international treaties that make the ‘International Bill of Human Rights’ (along with the Universal Declaration of Human Rights), the ICESCR provides the legal framework to protect and preserve the most basic economic, social and cultural rights, including rights relating to work in just and favourable conditions, to social protection, to an adequate standard of living, to the highest attainable standards of physical and mental health, to education and to enjoyment of the benefits of cultural freedom and scientific progress. For this reason, most of the rights contained in the ICESCR are related to tackling VAW, given that VAW is a cause and consequence of women’s enjoyment of their human rights on a basis equal to men.

Some of the ICESCR's articles most relevant to tackling VAW include:

Article 2: right to non-discrimination and the right to an effective remedy

Article 3: equal right of men and women to the enjoyment of economic, social and cultural rights in the ICESCR

Article 6: right to work

Article 7: right to just and favourable conditions of work

Article 10: protection of the family, mothers, children and young persons

Article 11: right to an adequate standard of living, including adequate food

Article 12: right to health

Article 13: right to education

Article 14: primary education

Article 15: right to participate in cultural life

International Commission on Human Rights:

The Commission, established in 1946, is the main United Nations legislative body working to promote and protect human rights. The Commission provides overall policy guidelines, studies human rights problems, develops and codifies new international norms and monitors the observance of human rights around the world. The Commission provides a forum for States, civil society – through non-governmental organizations – and international organizations to voice their concerns about human rights issues.

In 1947, where the Commission on Human Rights met for the first time, its sole function was to draft the Universal Declaration of Human Rights. That task was accomplished within a year and the Declaration was adopted by the General Assembly on 10 December 1948 (since then 10 December is celebrated annually as “human rights day”).

For the first 20 years (1947-1966), the Commission concentrated its efforts on standard-setting. Using the Universal Declaration as the basis, the Commission set about drafting an impressive body of international human rights law, culminating in the adoption by the General Assembly in 1966 of the two human rights covenants, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Together, the Universal Declaration and the two Covenants are commonly referred to as the International Bill of Human Rights.

The standard-setting character of the first 20 years is illustrated by a statement adopted by the Commission in 1947 (and endorsed that year by the Economic and Social Council) to the effect that it “recognized that it had no competence to deal with any complaint about violations of human rights”.

It was only 20 years later, in 1967, that the Commission was specifically authorized (by the Economic and Social Council, with the encouragement of the General Assembly) to start to deal with violations of human rights. Since then, the Commission has set up an elaborate machinery and procedures, country-oriented or thematic (operating through Special Rapporteurs and working groups),

- to monitor compliance by States with international human rights law.
- to investigate alleged violations of human rights, inter alia, by dispatching fact-finding missions to countries in all parts of the world, rich and poor, developing and developed alike.

During the 1970s and 1980s these implementations and fact-finding machinery and procedures became the focus of the Commission’s attention.

In the 1990s, the Commission has increasingly turned its attention to the needs of States to be provided with advisory services and technical assistance to overcome obstacles to securing the enjoyment of human rights by all. At the same time, more emphasis has been put on the promotion of economic, social and cultural rights, including the right to development and the right to adequate standard of living. Increased attention is also being given to the protection of the rights of vulnerable groups in society, including minorities and indigenous people and to the protection of the rights of the child and of women, including the

eradication of violence against women and the attainment of equal rights for women.

This new emphasis finds eloquent expression in the Vienna Declaration and the Programme of Action, the final document of the World Conference on Human Rights held in Vienna in 1993, which highlights democracy and development as an integral part of human rights.

International Court of Justice:

The International Court of Justice, also known as the World Court, is the main judicial organ of the UN. It was established in June 1945 by the Charter of the United Nations and began work in April 1946.

Capital:

The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York (United States of America).

Composition and Functions of Court:

The International Court of Justice is composed of 15 judges elected to nine-year terms of office by the United Nations General Assembly and the Security Council. The Court may not include more than one national of the same State. Moreover, the Court as a whole must represent the main forms of civilization and the principal legal systems of the world. These organs vote simultaneously but separately. In order to be elected, a candidate must receive an absolute majority of the votes in both bodies. This sometimes makes it necessary for a number of rounds of voting to be carried out. In order to ensure a measure of continuity, one third of the Court is elected every three years. Judges are eligible for re-election. Should a judge die or resign during his or her term of office, a special election is held as soon as possible to choose a judge to fill the unexpired part of the term.

The Court's role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies. The Court decides disputes between countries, based on the voluntary participation of

the States concerned. If a State agrees to participate in a proceeding, it is obligated to comply with the Court's decision.

UNIT III

European Convention on Human Rights:

The European Convention on Human Rights (ECHR) protects the human rights of people in countries that belong to the Council of Europe. All 47 Member States of the Council, including the UK, have signed the Convention. Its full title is the 'Convention for the Protection of Human Rights and Fundamental Freedoms'.

Council of Europe:

Formed in 1949, the Council of Europe is completely separate from the European Union and much larger, with 47 members compared to the EU's 28. The UK became a Council member 24 years before it joined the EU. The UK's membership of the Council would be unaffected if it left the EU.

The Convention consists of numbered 'articles' protecting basic human rights. The UK made these rights part of its domestic law through the Human Rights Act 1998.

Origin of Convention

The Council of Europe was founded after the Second World War to protect human rights and the rule of law, and to promote democracy. The Member States' first task was to draw up a treaty to secure basic rights for anyone within their borders, including their own citizens and people of other nationalities.

Originally proposed by Winston Churchill and drafted mainly by British lawyers, the Convention was based on the United Nations' Universal Declaration of Human Rights. It was signed in Rome in 1950 and came into force in 1953.

Rights and Freedoms of Convention protect:

The Convention guarantees specific rights and freedoms and prohibits unfair and harmful practices.

The Convention secures:

- The right to life (Article 2)
- Freedom from torture (Article 3)

- Freedom from slavery (Article 4)
- The right to liberty (Article 5)
- The right to a fair trial (Article 6)
- The right not to be punished for something that wasn't against the law at the time (Article 7)
- The right to respect for family and private life (Article 8)
- Freedom of thought, conscience and religion (Article 9)
- Freedom of expression (Article 10)
- Freedom of assembly (Article 11)
- The right to marry and start a family (Article 12)
- The right not to be discriminated against in respect of these rights (Article 14)
- The right to protection of property (Protocol 1, Article 1)
- The right to education (Protocol 1, Article 2)
- The right to participate in free elections (Protocol 1, Article 3)
- The abolition of the death penalty (Protocol 13)

The European Court of Human Rights:

The European Court of Human Rights applies and protects the rights and guarantees set out in the European Convention on Human Rights.

Mexican Declaration:

The first UN conference on women:

The first world conference on the status of women was convened in Mexico City, Mexico to coincide with the 1975 International Women's Year, observed to remind the international community that discrimination against women continued to be a persistent problem in much of the world.

The Conference, along with the United Nations Decade for Women (1976-1985) proclaimed by the General Assembly five months later at the urging of the Conference, launched a new era in global efforts to promote the advancement of women by opening a worldwide dialogue on gender equality.

At this conference, three objectives were identified in relation to equality, peace and development for the Decade:

- Full gender equality and the elimination of gender discrimination;
- The integration and full participation of women in development;
- An increased contribution by women towards strengthening world peace.

The Conference urged Governments to formulate national strategies, targets and priorities. It led to the establishment of the International Research and Training Institute for the Advancement of Women (INSTRAW) and the United Nations Development Fund for Women (UNIFEM), both of which were later merged, along with two other UN entities, in 2010, to form UN Women.

Role of the Conference:

At the 1975 conference, women played a highly visible role. Of the 133 delegations from Member States, 113 were headed by women. Women also organized the International Women's Year Tribune, which attracted some 4,000 participants, and a parallel forum of non-governmental organizations that signalled the opening up of the United Nations to non-governmental organizations, which enable women's voices to be heard in the organization's policy-making process.

The World Plan of Action for the Implementation of the Objectives of the International Women's Year was adopted by the Conference. The Plan provided guidelines for national action over the 10-year period from 1975 to 1985 as part of a sustained, long-term effort to achieve the objectives of the International Women's Year. The recommendations for national action were addressed primarily to Governments, and to all public and private institutions, women's and youth organizations, employers, trade unions, mass communications media, non-governmental organizations, political parties and other groups.

Final Report of the Conference:

The Final Report of the Conference stated that “National plans and strategies for the implementation of this Plan should be sensitive to the needs and problems of different categories of women and of women of different age groups. However, Governments should pay special attention to improving the situation of women in areas where they have been most disadvantaged and especially of women in rural and urban areas.”

Fundamental Rights:

Fundamental Rights of the Indian Constitution:

The Fundamental Rights are named so because they are protected and guaranteed by the Constitution, which is the fundamental law of India. The Fundamental Rights are included in Part 3 of the Indian Constitution from Articles 14 to Article 35. All the Fundamental Rights in the Indian Constitution are taken from or inspired from the Constitution of the USA i.e., the Bill of Rights. Part 3 is also described as the Magna Carta of India. It carries a very comprehensive and long list of ‘justiciable’ Fundamental Rights.

Fundamental Rights

The Fundamental Rights in Indian Constitution are more detailed than those found in the Constitution of any other country in the world. These are guaranteed by the Constitution without any discrimination against all persons. These are intended for promoting the idea of political democracy. They protect the freedoms and liberties of the people against the invasion by the State authority. They aim at establishing a government not of men but of laws.

Fundamental Rights of the Indian Constitution:

Originally, the Indian Constitution provided 7 Fundamental Rights which have now been revised to 6 Fundamental Rights which are as follows-:

- Right to equality (Articles 14–18)
- Right to freedom (Articles 19–22)
- Right against exploitation (Articles 23–24)
- Right to freedom of religion (Articles 25–28)

- Cultural and educational rights (Articles 29–30)
- Right to constitutional remedies (Article 32)
- The right to property was deleted from the list of Fundamental Rights by the 44th Constitutional Amendment Act of 1978 and made a legal right under Article 300-A in Part 12 of the Indian Constitution. At present, there are only 6 Fundamental Rights.

Fundamental Rights- Features & Characteristics:

1. Some Fundamental Rights are available only to the citizens while others Fundamental Rights are available to all persons whether citizens, legal persons like corporations or companies or foreigners.
2. Fundamental Rights are not absolute but qualified.
3. The state can impose reasonable restrictions on them.
4. Some of them place limitations on the authority of the State because they are negative in character.
5. If and when they are violated they allow persons to move the courts for their enforcement.
6. Fundamental Rights are justiciable.
7. They are guaranteed and defended by the Supreme Court.
8. During the operation of a National Emergency they can be suspended except the rights guaranteed by Articles 20 and 21.

Directive Principles in India:

Meaning:

The concept behind the DPSP is to create a ‘Welfare State’. In other words, the motive behind the inclusion of DPSP is not establishing political democracy rather, it’s about establishing social and economic democracy in the state. These are some basic principles or instructions or guidelines for the government while formulating laws/policies of the country and in executing them.

Sources:

The DPSP of the Indian Constitution was inspired by the Irish Constitution which took these details from Spain.

Some Instruments of Instructions, which also became the immediate source of DPSP, have been taken from the Government of India Act, 1935.

Another source was the Sapru Report, 1945 which gave us both Fundamental Rights (justiciable) and DPSP(s) (non-justiciable).

Features:

1. DPSP are not enforceable in a court of law.
2. They were made non-justifiable considering that the State may not have enough resources to implement all of them or it may even come up with some better and progressive laws.
3. It consists of all the ideals which the State should follow and keep in mind while formulating policies and enacting laws for the country.
4. The DPSPs are like a collection of instructions and directions, which were issued under the Government of India Act, 1935, to the Governors of the colonies of India.
5. It constitutes a very comprehensive economic, social and political guidelines or principles and tips for a modern democratic State that aimed towards inculcating the ideals of justice, liberty, equality and fraternity as given in the preamble. The Preamble consists of all the objectives that needs to be achieved through the Constitution.
6. Adding DPSP was all about creating a “welfare state” which works for the individuals of the country which was absent during the colonial era.

Articles of Directive Principles:

Article 36 of Part IV defines the term “State” as the one, who has to keep in mind all the DPSP before formulating any policy or law for the country. The definition of “State” in the part IV will be the same as that of Part III, unless the context otherwise requires a change in it.

- Article 37 the nature of DPSP has been defined. DPSPs are non-justiciable.
- Article 38 State to secure a social order for the promotion of the welfare of the people.
- Article 39 Certain principles of policy to be followed by the State.
- Article 39A Equal justice and free legal aid.
- Article 40 The organization of village panchayats.
- Article 41 Right to work, to education and to public assistance in certain cases.
- Article 42 Provision for just and humane conditions of work and maternity relief.
- Article 43 Living wage, etc., for workers.
- Article 43A Participation of workers in the management of industries.
- Article 43B Promotion of co-operative societies.
- Article 44 Uniform civil code for the citizens.
- Article 45 Provision for free and compulsory education for children.
- Article 46 Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
- Article 47 Duty of the State to raise the level of nutrition and the standard of living and to improve public health.
- Article 48 The organisation of agriculture and animal husbandry.
- Article 48A Protection and improvement of environment and safeguarding of forests and wildlife.
- Article 49 Protection of monuments and places and objects of national importance.
- Article 50 Separation of judiciary from the executive.
- Article 51 Promotion of international peace and security.

UNIT IV

Issues of refugees:

Settlement challenges:

Settlement' is commonly used to refer to the process of refugees settling into a new country. Settlement is a two-way process. Both refugees, and the wider community, have to adapt to refugees coming to Australia. For settlement to be successful there must be a 'spirit of hospitality', where refugees are made to feel welcomed into a community.

Leaving everything behind in one life and beginning another in a different country with different laws, different education and health systems, different languages and different cultural expectations requires a period of adjustment.

Essential factors in successful settlement include income support, housing, employment, education, health care and family reunion. Other, less tangible, factors also play a vital role in the settlement process, including:

- Being able to feel safe and secure;
- Restoring a sense of self worth;
- Restoring a sense of dignity;
- Regaining a sense of control over one's life;
- Resolving guilt; and
- Processing grief about the loss of self and country.

For people who seek asylum and refuge, this process is all the more difficult due to the circumstances under which they depart their home country. Some of the documented challenges faced by people from refugee backgrounds in Australia are:

- Finding affordable housing
- Finding employment
- Language and communication barriers
- Racism and discrimination
- Community attitudes
- Impact of disrupted education on schooling

- Learning English
- Distance and lack of communication with families in the home country and/or countries of asylum (particularly if/where the family remains in a conflict situation)
- Ongoing mental health issues due to trauma, including survivor guilt
- Financial difficulties
- Visa insecurity (temporary visa holders)
- Separation from family members; living in blended families
- Changes in roles and status of family members.

Impact on children and young people:

Young people face particular challenges because of their age and experiences. They carry the scars of war and displacement with them. Sometimes children are forced to flee alone and arrive in Australia as unaccompanied minors.

Although children are very resilient some children experience:

- Physical and psychological effects of trauma
- Language and literacy difficulties due to disrupted or limited prior education
- Issues with identity and belonging
- Changing family responsibilities.

Overcoming a Language Barrier:

Most refugees and migrants settle in countries that don't speak their native tongue. If you take an example of a Syrian refugee migrating to the USA, it's highly unlikely that they know English. Settling in the USA, where English is the primary language can be an uphill battle for refugees and migrants.

Daily communication, getting a job, filling documentation or buying food, all of these require knowledge of the English language. Similarly, refugees moving from Myanmar to Bangladesh don't speak their language.

Specialist counselling may be required for students from refugee backgrounds upon settlement in a new country. In New South Wales, support is offered through the NSW Service for the Treatment and Rehabilitation of Trauma and Torture Survivors (STARTTS).

Governments have a responsibility to provide on-arrival settlement support to people from refugee backgrounds in areas such as housing, health and education. For more information about the assistance provided for people from refugee backgrounds in Australia refer to Refugees in Australia.

In 2018, the Office for the Advocate for Children and Young People (ACYP) conducted consultations with young people from refugee and asylum seeker backgrounds to learn what they found helpful and challenging about settling in Australia.

Children problems:

The world is currently dealing with the largest refugee population on record, with more than 25 million people uprooted from their homes and living abroad in host communities. Of this 25 million, 11 million (according to UNICEF) are children. This number has doubled over the last 10 years.

While there are risks and challenges for all refugees, living an uprooted life has a unique impact on children. Here are 5.

1. Limited access to quality education.
2. Compromised mental health and the threat of “lost” childhoods.
3. Separation from families and greater vulnerability.
4. Shifting family dynamics and responsibilities.
5. Isolation in host community.

Youth problems:

Refugee youth are seldom consulted and frequently overlooked. Their potential remains largely untapped.

Refugee youth are seldom consulted, frequently overlooked, and often unable to fully participate in decision making. Their talents, energy, and potential remain largely untapped, according to a report from the UN Refugee Agency (UNHCR) and the Women’s Refugee Commission (WRC).

In 2015 and 2016, UNHCR and WRC undertook the Global Refugee Youth Consultations (GRYC) to amplify “voices” of youth in decisions that affect them. The project engaged more than 1,200 young people, aged 15-24 years old, who participated in 56 national and sub-national consultations held in 22 countries.

The consultations were “the beginning of a process that will continue to develop the leadership, capacity, and futures of refugee youth everywhere,” according to UNHCR and WRC.

Youth are youth everywhere.

Refugee youth want the same things that young people want everywhere: to be consulted and listened to., The want to be to engaged, to contribute to and to be part of solutions. They want opportunities, education, employment and inclusion. The report is a road map for action for all those engaged in humanitarian response, including states, international organizations, international and national civil society organizations, donors, and youth groups.

Challenges:

- 1: Difficulties obtaining legal recognition and personal documents
- 2: Difficulty in accessing quality learning, education, and skills-building opportunities.
- 3: Discrimination, racism, xenophobia, and “culture clash”
- 4: Few youth employment and livelihood opportunities
- 5: Gender inequality, discrimination, exploitation, and violence, including for LGBTI youth.
- 6: Poor access to youth-sensitive healthcare, including psychosocial support
- 7: Lack of safety, security, and freedom of movement
- 8: Challenges for unaccompanied youth
- 9: Lack of opportunities to participate, be engaged, or access decision makers
- 10: Lack of information about asylum, refugee rights, and available services

Refugees and migrants are fleeing a life of extreme difficulty and hardships, they settle into a new country with hopes and aspirations of leading a better life.

These challenges often play spoilsport to such dreams and aspirations. Systemic recognition and action is the only way to ensure that refugees and migrants transition smoothly and they face fewer challenges while doing so.

Migrants:

The UN Migration Agency (IOM) defines a migrant as any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of

- (1) the person's legal status;
- (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are;
- (4) what the length of the stay is.

Migrants and the SDGs:

The 2030 Agenda for Sustainable Development recognizes for the first time the contribution of migration to sustainable development. 11 out of the 17 Sustainable Development Goals (SDGs) contain targets and indicators relevant to migration or mobility. The Agenda's core principle is to "leave no one behind," not even migrants.

The SDGs' central reference to migration is made in target 10.7: to facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies. Other targets directly related to migration mention trafficking, remittances, international student mobility and more. Moreover, migration is indirectly relevant to many more cross-cutting targets.

The International Organization for Migration (IOM):

Established in 1951, IOM is the leading inter-governmental organization in the field of migration. IOM works to ensure the orderly and humane management of migration,

- to promote international cooperation on migration issues.
- to assist in the search for practical solutions.
- to migration problems and to provide humanitarian assistance.
- to migrants in need, including refugees and internally displaced people.

In 2016, IOM entered into an agreement with the United Nations, becoming one of its specialized agencies.

Data on migration:

In 2019, the number of international migrants worldwide – people residing in a country other than their country of birth – reached almost 272 million (from 258 million in 2017). Female migrants constituted 48 per cent of international migrants. There were an estimated 38 million migrant children, three out of four international migrants were of working age, meaning between 20 and 64 years old.

Global Action:

Large-scale movements of refugees and migrants affect all UN Member States and they require closer cooperation and responsibility-sharing. In 2016, the UN General Assembly convened a high-level plenary meeting on addressing large movements of refugees and migrants. The UN Secretary-General prepared the report ‘In Safety and Dignity: Addressing Large Movements of Refugees and Migrants’ with recommendations on the issue.

New York Declaration:

UN Member States adopted a set of commitments, known as the New York Declaration for Refugees and Migrants, in which they recognized the need for a comprehensive approach to migration. The New York Declaration acknowledges the positive contribution of migrants to sustainable and inclusive development, and commits to protecting the safety, dignity and human rights and fundamental freedoms of all migrants, regardless of their migratory status.

In March 2017, the UN Secretary-General appointed Louise Arbour of Canada as his Special Representative for International Migration to lead the follow-up to the migration-related aspects of the High-Level Summit.

As a result of the New York Declaration, UN Member States agreed to work together to develop the Global Compact for Safe, Orderly and Regular Migration, adopted at an intergovernmental conference on international migration in December 2018 in Morocco. The GCM covers diverse issues such as strengthening labour rights for migrant workers, improving migration data as a basis for evidence-based policies, saving lives and establishing international efforts on missing migrants, and many others.

International Migrants Day:

In December 2000, the General Assembly proclaimed 18th December International Migrants Day. On that day in 1990, the Assembly adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Resources:

- United Nations Secretary-General's Action Agenda on Internal Displacement
- International Organization for Migration (IOM)
- IOM World Migration Report 2020
- Migration Network Hub
- Global Migration Data Analysis Centre (IOM-GMDAC)
- Global Migration Data Portal
- Global Compact for Migration
- Infographics on Migration
- Intergovernmental Conference on the Global Compact for Migration (2018)
- International Migrants Day
- Key Global Migration Figures, 2017 – 2019
- Migration Flow Monitoring Europe
- EU-IOM Joint Initiative for Migrant Protection and Reintegration.

Women's issues:

Women and girls make up half the world's population. Yet far too often, their voices, experiences, and contributions are overlooked or undervalued. They are underrepresented in the halls of political and economic power and overrepresented in poverty, while barriers—from gender-based violence and lack of political and economic opportunities, to laws that hold women to a different standard—block the path to progress.

Inequality and the low status of women and girls have vast political, economic, and social implications. This can limit the ability of communities to resolve conflict, countries to boost their economies, or regions to grow enough food. The untapped potential of women remains a lost opportunity for economic growth and development the world can ill afford. The inclusion of women in peace and security, and conflict prevention and resolution is essential to ensure gains reach all members of society.

The United States is committed to advancing gender equality and the empowerment of women and girls through U.S. foreign policy. The Department of State has identified four key priorities to advance gender equality and the status of women and girls around the world:

- Women, peace, and security
- Women's economic empowerment
- Gender-based violence
- Adolescent girls

Read more about what specific offices are doing to support this policy issue:

Office of Global Women's Issues (S/GWI): The Secretary's Office of Global Women's Issues has a mandate to promote the rights and empowerment of women and girls throughout U.S. foreign policy. S/GWI leads the Department's efforts to include women and girls in U.S. diplomacy, partnerships, and programs, and ensures gender integration.

Female Foeticide:

Female foeticide is the procedure of abortion to terminate female fetus from the womb of the mother before taking birth after the sex recognition tests like an ultrasound scan. Female foeticide and even any sex recognition test is illegal in India. It is the shame for the parents who are despairing for a baby boy as well as doctors doing abortions especially for this.

Causes of Female Foeticide:

Female foeticide has been in practice for periods especially for the families who have a preference only male child. Several religious, social, financial and emotional are the reason for female foeticide. Therefore the time has been changed now much however, many reasons and beliefs are ongoing in some families. Some main reasons for female foeticide are:

1. Generally, parents don't want a girl baby because they have to give a big amount as a dowry at daughter's marriage.
2. There is a faith that girls are always consumer and boys are the only producer. Thus Parents understand that son will earn money for the whole life and care their parents however girls will get married a day and will have a separate family.
3. There is a belief that the son will carry the name of the family in future however the girl has to carry the husband's family.
4. This is a prestige issue in society for parent and grandparent to have a boy baby in the family besides having a daughter.
5. There is a stress on the new bride of the family to give birth to a male child so she is enforced to go for sex recognition and abort if girl baby.
6. Illiteracy, insecurity, and poverty of people in society are also major reasons for girl baby burden.
7. Science and Technological advancement and utilities have made this very easy task for parents.
8. Get the huge list of more than 500 Essay Topics and Ideas.

Impact of female foeticide on the sex ratio:

Sex ratio denotes the ratio of females to males in a specific region. Many practices like female foeticide and female infanticide (killing a baby girl after her birth) have had a contrary influence on the sex ratio. Thus it rises and promotes many social evils.

As per the decennial Indian census, Sex Ratio of India is 107.48. It means 107.48 males per 100 females in 2019. Therefore India has 930 females per 1000 males. So, India has 48.20% female population compare to 51.80% male population.

Effective Measures to Control:

As we all know that female foeticide is a crime and social evil for the future of women. Hence we should notice the causes for female foeticide in Indian society. Female infanticide or female foeticide is primarily because of sex determination. Some measures are:

- Law must be implemented and one should be surely punished if found guilty for this unkind exercise.
- Permanent cancellation of license should be done if it is going on in medical practice.
- Marketing of medical tools specifically for illegal sex determination and abortion should be a bane.
- Parents must be fined who want to kill their girl baby.
- Campaigns and seminars should be regularly held to aware of young couples.
- Women should be aware so that they can be more attentive to their rights.

Conclusion:

Forthcoming is the name of your girl child, past is the name of your mother. This is the reality that NO PRESENT, NO PAST, NO FUTURE WITHOUT GIRL CHILD. Female foeticide is suicide. So, save the girl child and secure the future. There will be the dangerous results of the female foeticide. Demography reports warn India that in the next twenty years there will be a scarcity of brides in the marriage market mostly because of the adverse sex ratio.

Female Infanticide:

Female infanticide after all these years continues to be a serious issue in India. It is killing of a girl child intentionally. Besides using several measures to kill a girl child soon after her birth, the other methods used to kill the child in the womb after determining the sex are also prevalent. Today because of this deliberate elimination, there are more than 160 million girls who went missing in India which has created an imbalance in the sex ratio.

Reasons for female infanticide:

There are various possible reasons for this problem. The reason lies in the cultural, economical and religious roots of India. Females are always seen as a burden to the society. A male child is considered to bring wealth, reputation and wellbeing and labour in the family while a female child is always seen to bring bad luck to the family, also it is a general conception of people that if a female is born they have to spend more on her education which will be waste as the ultimate aim of her parents is to get her married. The root cause thus of the female infanticide is Dowry system in India. There is a system in India in which grooms side has to be given dowry from the bride's side at the time of her marriage as demanded and thus creating a problem for the poor families who can't afford this. A female is always seen as a financial obligatory by the parents. Another reason can be that a male child is considered as a path to heaven, under Hindu mythology a male child is given great importance as he is considered to give his parents the moksha (soul salvation). A male child is also considered important as he will carry the family line. Also in 1975 due to one child policy only the female children were killed due to these aforementioned reasons. At that time, various novel technologies were introduces, ultrasound machines were installed, and people were thus made aware of various sex determination techniques and trapped in such misapprehensions, ultimately the poor female foetuses were killed in the womb even.

Effects of female foeticide

The major effect of female infanticide is that it is leading to an imbalance in the sex ratio which is increasing. The number of female children per male child has decreased from 972/1000 to 929/1000 in 1991 and 914 per 1000 boys in 2011 census and it is still decreasing. Female infanticide is causing a stiff decrease in

the female's population which is a great concern. The child sex ratio is not uniform across the states in India. The states like Haryana, Delhi, Himachal Pradesh and Chandigarh, the ratio has declined to 900 girls per 1000 boys. There are more number of boys than that of girls due to which the difficulty of finding girls for marriage is increasing and this in turn is becoming one of the major causes of female trafficking in India. In areas like Haryana the females are being sold illegally from areas like west Bengal and Assam. This situation is further creating social deprivation for girls.

India

India is a patriarchal society in which a cultural bias against women has contributed to frequent cases of female infanticide, particularly in poor and rural areas. In South India, the state of Tamil Nadu is a particular area of concern due to indirect demographic evidence that suggests that the practice has increased, here, in recent years (George, Sabu M.). Female infanticide is prevalent throughout the state, particularly in the districts of Salem, Dharmapuri, Dindigul, and Madurai (Aravamudan,1999). In 1995, a study indicated that the number of girls who died soon after birth was three times greater than the number of boys (George, Sabu M.). In Dharmapuri, almost 3000 girls reportedly died immediately after birth between 1994 and 1997 (Aravamudan, 1999). Female infanticide is practiced by many different castes, indicating a bias against females throughout the social hierarchy.

State Government schemes:

The state governments of India have taken some steps to combat female infanticide and sex-selective abortion. For instance, in 1992, the Chief Minister of Tamil Nadu enacted the 'Jayalaitha Protection Scheme for the Girl Child'. "Under its provisions, a poor family with one or two girls and no sons would be eligible for monetary incentives if one parent agreed to be sterilized. Money given in the name of the infant girl would be held in a fixed deposit account until she reached twenty-one years of age".

Cradle Babies' scheme:

In addition, this Chief Minister developed the 'Cradle Babies' scheme, which asked that families abandon their unwanted female infants in cradles set up in government health centers, rather than kill them. However, both of these programs failed to eradicate female infanticide in Tamil Nadu. Unfortunately, the Indian police have not proven to be a successful deterrent to female infanticide. As mentioned earlier, parents fearing punishment have simply adopted new methods of killing their daughters. Of those cases that are reported to the police, not many are successfully prosecuted.

The education of both men and women, social strategies to improve the status of women, and access to family counseling and healthcare may provide means of eliminating female infanticide, as well as elevating the value assigned to women around the globe.

Wrongful confinement:

Section 340 of IPC deals with the offence of wrongful confinement. Wrongful confinement can be said to be a species of 'wrongful restraint' as defined in the section. Where wrongful restraint is partial restraint of a person, wrongful confinement is the total restraint of a person, wrongful confinement if the total restrains of a person from proceeding beyond the certain circumscribing limit.

Illustration:

A caused Z to go within a walled space and locked Z in. A is thus prevented from proceeding in any direction beyond the circumscribing limit of wall A wrongfully can find Z.

Ingredients:

- (1) Voluntary restraining a person.
- (2) In such manner as to prevent that person from proceeding beyond certain circumscribing limit.

Types of Wrongful Confinement:

1. Wrongful confinement for three or more days (Section 343)
2. Wrongful confinement for ten or more days (Section 344)
3. Wrongful confinement of person for whose liberation writ has been issued (Section 345)
4. Wrongful confinement in secret (Section 346).
5. Wrongful confinement to extort property, or constrain to illegal act (Section 347).
6. Wrongful confinement to extort confession, or compel restoration of property (Section 348).

Custodial Death:

For India like country the custodial deaths or custodial torture is not new concept it has long history but basically from British period is highly increased till today we are trying to curb such social evil from our society. After independence Indian government made major changes in law but did not make as effective change as to curb the custodial violence from Indian society.

Section 76 of Cr.P.C, Sections 25 & 26 of the Indian Evidence Act and Section 29 of the Police Act, 1861 The Sections 330, 331 & 348 of IPC are those sections that make the control torture of the policeman, but these laws are less sufficient to control such torture or violence. The advent of custodial death and torture has reached its highest level as reported by national campaign against torture stating that more than 1700 deaths.

Torture has not been defined under constitution or other laws. The word custody indicates guardianship and protective care. Even when it indicates arrest. It should not carry any sinister symptoms of violence during the custody. No civilized law assumes the existence of the custodial cruelty.

National Human Rights Commission:

As per the present legislation in India the custodial torture is the grave result of death, rape and physical torture. The National Human Rights Commission has issued fresh guidelines to all State Governments.

The Commission had issued general instructions in 1993 that within 24 hours of occurrence of any custodial death, the Commission must be given intimation about it. These intimations were to be followed with Post-mortem Reports, Magisterial Inquest Reports/Videography Reports of the postmortem etc

It is mentioned in exception of section 300 of Indian penal code that if a public servant exceeds the right of using force and causes death of any person he is liable for an offence of culpable homicide not amounting to murder. Moreover it is clearly mentioned in section 330 of Indian Penal Code that if any public servant causes injury to any person to extort confession he will be liable for punishment with imprisonment upto seven years. The law of the country does not permit the police personnel to use force illegally.

Recently, fifteen bonded labourers were rescued by the district administration of Guna in Madhya Pradesh. These labourers were being subjected to inhuman treatment and torture by their employer.

Bonded Labour:

Bonded Labour is a practice in which employers give high-interest loans to workers who work at low wages to pay off the debt.

The Supreme Court of India has interpreted bonded labour as the payment of wages that are below the prevailing market wages and legal minimum wages.

Bonded labour was historically associated with rural economies where peasants from economically disadvantaged communities were bound to work for the landlords.

Bonded labour is found to exist in both rural and urban pockets in unorganized industries such as brick kilns, stone quarries, coal mining, agricultural labour, domestic servitude, circus, and sexual slavery.

International Obligations:

- India is obliged to end modern slavery by 2030 under the Sustainable Development Goal (Target 8.7) of ending forced labour, human trafficking and child labour.
- India has also ratified the ILO Abolition of Forced Labour Convention, 1957 (No. 105).
- India also aspires to improve its rank (53rd out of 167 countries in the year 2018) in the Global Slavery Index.

Constitutional Provisions:

- Article 21 deals with the Right to Life and Personal Liberty.
- Article 23 of the Constitution prohibits forced labour.
- Article 24 prohibits the employment of children (below the age of fourteen years) in factories, etc.
- Article 39 directs the State to secure the health and strength of workers, men and women, and to see the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

Related Legislations:

- Bonded Labour System (Abolition) Act 1976:
- The Act extends to the whole of India but implemented by respective state governments.
- It provides for an institutional mechanism at the district level in the form of Vigilance Committees.
- Vigilance committees advise District Magistrate (DM) to ensure the provisions of this Act are properly implemented.
- The State Governments/UTs may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or second class for the trial of offences under this Act.

Central Sector Scheme for Rehabilitation of Bonded Labourers (2016):

Financial assistance to the extent of Rs. 3 lakhs is provided to released bonded labourers along with other non-cash assistance for their livelihood.

Reasons for the Persistence of Bonded Labour:

- The lack of awareness among workers and employers.
- Low conviction rates.
- Social bias towards bonded labour.
- Migratory nature of bonded labour.
- Weaker implementation of Bonded Labour System (Abolition) Act 1976.
- Punishment for forced labour (Section 374 of IPC– unlawful compulsory labour) is not appropriate.
- Lack of proper coordination at the national and regional level, and among governments.

Measures Needed to End Bonded Labour:

Organising national campaigns to provide information to the public on how to report and identify victims of bonded labour.

Popularising the National Child Hotline which is partly supported by the Ministry of Women & Child Development, and a national helpline for trafficking victims exists, run by Operation Red Alert.

Efficient rehabilitation of rescued victims to prevent them from being forced into bonded labour again.

Productive and income generating schemes must be formulated in advance otherwise they will again fall back upon the system of bonded labour after their release.

Child labour:

Child labour definition

Child labour is a global phenomenon, it is not restricted to only one country. “Child labour” is defined as the employment of children in any manual work.

According to the Child Labour (Prohibition and Regulation) Act, 1986, a “child” is a person who has not yet attained the age of 14 years. In this tender age where a child is expected to grow, enjoy his or her childhood to the fullest, seek education, gain a strong value system. It is frequently observed that the children are forced to become labour due to some hardships like lack of strong financial support, lack of proper food, clothing, shelter, livelihood etc.

International Labour Organization [ILO] defines:

International Labour Organization [ILO] defines child labour as a work that not only affects their childhood but also doesn't let the children attend the school regularly, or have a proper education. Child labour also deprives children of their dignity, potential and childhood. Children working below the age of 14 years are not able to develop mentally, socially, physically or morally.

Child labour issue

Child labour is a major issue not only in India but in every developing country because it destroys a child's physically as well as mentally. Because of poverty, child labour has become more prevalent, not only in India but globally. Children are the hope and future of a nation that is why it constitutes a social problem. Many laws have been enacted in order to prohibit child labour, however they haven't been effective in curbing the problem. The statistic report of 2017 explains that India is one of the leading countries in Asia as it has 33 million children employed in child labour. According to the 2011 Census, total child population was 259.6 million out of which 10.1 million are either working as main worker or as marginal workers.

Causes of child labour

Poverty, illiteracy of parents, social and economic circumstances of the family are the main causes of child labour. Lack of awareness related to the harmful effects of child labour and lack of access to basic and quality education, cultural values of the family and the surroundings of the society in which one is living, also increase the rate of child labour. High rates of unemployment and under-employment also play a vital role in child labour.

Children who discontinue school due to family indebtedness or are expelled from the school are more prone to child labour. Girls from socially disadvantaged groups are at a higher risk of being forced into child labour.

Causes of child labour in India

In India, the major causes of child labour are:

- **Poverty:** Children are considered helping hands of their family. In developing countries, it is almost impossible to control child labour as children not only have to support themselves but their families also and provide them with a living. Due to poverty, the rate of unemployment and underemployment are also very high and so the parents have to send their children to work on low wages.
- **Previous debts:** Due to their poor economic condition people take loans. But they don't have sufficient money to pay back the loans so they not only work day and night to pay off the loans but they also drag their children to work so that the loan could be paid off before time and easily.
- **Professional needs:** Some industries require delicate and soft hands rather than rough hands that are required in bangle industries. So they prefer children and not adults for such work.
- **Bonded labour:** Children often work for long hours in the sun and they are deprived of water, food. These children are seldom paid. Bonded labour further adds to the large scale increase in child labour.
- **Domestic help:** Small children often work for educated families and irrespective of several laws that violate the employment of children, they often welcome small children so that these children can take care of their homes as well as their children.
- **Child sex workers:** Often, girls who attained the age of puberty are forced into prostitution in lieu of a promise that they would be given opportunities to do glamorous jobs.
- **Forced begging:** Families who can't support themselves force their children to beg on the roads in subhuman conditions. They get their children maimed in order to get more money from the people.

Consequences of child labour:

- Children are prone to accidents and many other types of hazards at the workplace.
- Such injuries cause them social and economic harm, the effect of which continues for their entire lives.
- General injuries like cuts, burns, lacerations, fractures and dizziness are very common.
- Sexual abuse, STDs, HIV/AIDS, drugs, alcoholism, sexual exploitation of girls, rape, prostitution are also the consequences of child labour.
- They also face physical neglect in food, clothing, shelter and medical treatment. Because of this, they are not able to go to school which deprive them of basic education due to which they have to live in poverty.
- Emotional neglect is also the consequences of child labour.
- Children are prone to physical abuse including beating which often leads to a physical deformity.

No. of child labour employed In 1997, child labour involved in the diamond industry was between 10,000 to 20,000 out of 1.5 million total workers.

An exact estimate was not provided but child labour was significant in Tamil Nadu's fireworks industry. 15,000 children working in 1,100 silk factories in 1998. 20% of carpets manufactured in India could involve child labour.

Official estimates-More than 2,500,000 NGO's estimates- around 20 million.

Types of child labour in India:

There is an increasing involvement of children in home-based work and in the informal sector. Children are involved in the domestic, manual, agricultural sector, in hazardous factories, rag-picking, beedi-rolling, matchbox, brick kilns etc.

According to ILO, the worst types of child labour are:

- Slavery: Slavery is when one person works for another person. Slaves don't have the power to demand anything. They have to work according to the commands of their master.
- Child Trafficking: Buying and selling of children either for labour or for sexual exploitation.

- Debt Bondage: When people cannot pay off their loans with their money and belongings they are often forced to work as a labour.
- Serfdom: When a person works on land that belongs to another person, it is known as serfdom. The labour will either be provided with some pay or no pay will be given.
- Forced Labour: When a child works against his/her will then it is termed as forced labour.
- Beggary: When poor parents don't have any other way to earn a living they often beg on roads. They also cut their child's body part in order to gain sympathy and to get more money. Small children are seen on red lights asking for money for their treatments.

Child labour laws in India:

As compared to other countries, child labour in India is more prevalent. Out of 179 million children, 90 million who are in the age group of 6 to 14 years are employed and they don't go to school. It contributes to 50% of children in our country who are involved in child labour. Since 1933, various laws have been made in India to control child labour. These laws include:

- Minimum Wages Act, 1948: The State Government fixes minimum wages that are to be provided to the workers/labourers including the child labourers. The government fixed wages according to the type of work and according to the class of workers.
- The Plantation Labour Act, 1951: This Act prohibits the employment of children below the age of 12 years, but a child above the age of 12 years can be employed only when the appointed doctor issues a fitness certificate to that child.
- The Mines Act, 1952: This Act provides that no child should be present where the work of mining is going on and no child should be employed for such work.
- The Merchant Shipping Act, 1958: Except for a training ship, this Act does not allow the employment of children below the age of 14 years in a ship. Also, a person under the age of 18 years cannot be appointed as trimmers under this Act. They can only be appointed under some specific conditions mentioned in this Act.

- The Apprentices Act, 1961: Unless a child attains the age of 14 years and satisfy the standard of education and physical fitness test, he cannot undergo an apprenticeship training.
- The Indian Factories Act, 1948: No child below the age of 14 years shall be employed in a factory. Also, there are rules that a factory has to follow if they employ pre-adults that are between 15-18 years of age.
- The Child Labour (Prohibition and Regulation) Act, 1986: No child who is less than 14 years of age shall be employed in any hazardous occupations that are provided in a list by law. This list is explained further in the article. This list was amended not only in 2006 but also in 2008.
- The Juvenile Justice (Care and Protection) of Children Act, 2000: If any person employs a child in any of the hazardous work or use the child as a bonded labour then that person will be punishable under this Act.
- The Right of Children to Free and Compulsory Education Act of 2009: Free and compulsory education must be provided to each and every children below 14 years of age. In fact, to follow this Act efficiently, 25% of seats are also reserved in every private school for children who belongs to the disadvantaged group and for children who are physically challenged.
- Other Acts are:
 - ❖ Children (Pledging of Labour) Act, 1933.
 - ❖ Employment of Child Act, 1938.
 - ❖ The Bombay Shop and Establishment Act, 1948.
 - ❖ The Motor Transport Workers Act, 1961.
 - ❖ The Atomic Energy Act, 1962.
 - ❖ Bidi and Cigar Workers (Condition and Regulation) Act, 1986.
 - ❖ State Shops and Establishment Acts :

Children below the age of 14 years are not allowed to work in a factory and it is expressly provided in Article 24 of the Indian Constitution and Section 67 of the Factories Act, 1948. Free and compulsory education for all children up to the age of 14 years is provided by the Directive Principle of State Policy under Article 45 of the Indian Constitution.

Child Labour Act, 1986

The employment of children who are less than 14 years of age is prohibited by various acts but neither a procedure was laid down for this nor there were provisions made to regulate the working conditions of the child labourers who were employed in exploitative conditions. So, for this, a comprehensive Act was enacted known as the Child Labour (Prohibition and Regulation) Act, 1986. For this, a bill was introduced in the Parliament called the Child Labour (Prohibition and Regulation) Bill to achieve these objectives. After the recommendation made by Gurupadswamy Committee 1976, the Child Labour Act 1986 was passed on 23 December 1986. It was the Act number 61 of 1986.

Child Labour Act, 2016

The Child Labour (Prohibition and Regulation) Amendment Bill, 2016 was passed by the Parliament in July 2016. This Act not only amends the Child Labour Prohibition and Regulation Act, 1986 but also widens its scope and provides for strict punishments in case of its violation. The Child Labour Prohibition and Regulation Act, 1986 bans the employment in 83 hazardous occupations and processes for the children who are less than 14 years of age. The salient provisions of this Act are as follows:

Child labour laws in India:

The Child Labour (Prohibition and Regulation) Act, 1986,

Child Labour Act (Prohibition and Regulation), 2016

Constitutional Provisions for Child Upliftment

Various constitutional provisions have been provided for the child upliftment such as:

Article 21A: Right to Education

Article 21A of the Indian Constitution states that free and compulsory education must be provided to each and every child who is between the age of 6 to 14 years. Free and compulsory education must be provided in a manner laid down by the State and in a manner law determines.

Article 24: Prohibition of employment of children in factories, etc.

Article 24 of the Indian Constitution states that no child who is less than 14 years of age shall be employed in any hazardous factories or occupations or industries.

Article 39: The State shall, in particular, direct its policy towards securing

Child labour is still a problem before the nation. The various measures have been taken by the Government to deal with this problem of child labour actively. However, due to the socio-economic problems like poverty, illiteracy which are the main cause of child labour, it cannot be solved unless and until there are collective efforts of all the members of the society.

Meaning

Trafficking means illegal trade. Human trafficking means trading of humans. Trafficking can occur within a country or may involve movement across borders. Women, men and children are trafficked for a range of purposes, including forced and exploitative labour in factories, farms and private households, sexual exploitation, and forced marriage. Trafficking affects all regions and most countries of the world. Prostitution is said to be the oldest among professions in world of human beings and is rampant throughout the world.

Historical Background:

The term traffic was first used to refer the so-called 'white slave trade' in women around 1900. Trade of white women from Europe to Arab and Eastern states as concubines/prostitutes was a concern for men, women, and governments of European countries.

At this time, traffic meant movement of women for an immoral purpose i.e., prostitution. Initially, this definition required crossing of country borders, but by 1910 it changed to traffic in women within national boundaries. Traffic in women was seen as related to slavery, but also to closely linked to prostitution.

International Aspect:

- ❖ The earliest measure to combat international traffic in women was adoption of International Convention for the Suppression of the White Slave Traffic signed at Paris on 4th May 1910.
- ❖ Art.1 and 4 of International Labour Organization Forced Labour Convention (1930) prohibits trafficking for immoral purposes.
- ❖ The Geneva Convention on the prohibition of the traffic in women and children signed on 11th October 1933 promised to prosecute criminals who kidnap for purpose of prostitution abroad women or girls under 21 even with their consent.
- ❖ This convention was replaced by United Nations Convention for the Suppression of the Traffic in Persons, and of the Exploitation of Prostitution of Others, signed on 2nd December 1949.
- ❖ The most important international instrument is the Palermo Protocol, a supplement to UN Convention against Transnational Organized Crime (2000). Art.5 of the Protocol requires States to criminalize trafficking, attempted trafficking, and any other intentional participation or organization in a trafficking scheme.
- ❖ CEDAW, 1979 requires States to take all appropriate measures to suppress all forms of trafficking in women and exploitation of prostitution of women.

Legal Framework in India:

To combat this social menace, India does not lag behind. It has taken various steps to eradicate this problem. There are a number of enactments which refer to protection of women from exploitation.

In the Constitution of India[17], there are quite a many provisions for the protection of the rights of women and improvement of their conditions.

- ❖ Under Art.15(3), the state is empowered to make special provisions for women and children
- ❖ Art.23 prohibits trafficking in human being and forced labour. It states:

Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

- ❖ Art.39 provides for certain principle of policy to be followed by the state which among others includes that state should direct its policy towards securing that men and women equally, have the right to adequate means of livelihood, that the health and strength of workers, including men and women are not abused.
- ❖ Art.51A imposes duty on every citizen of India in mandatory form which says that:
 - ❖ It shall be the duty of every citizen of India, to renounce practices derogatory to the dignity of women.

Impact of Trafficking On Society and Individuals:

The human and social consequences of trafficking are compelling. From physical abuse and torture of victims to psychological and emotional trauma, to economic and political implications of unabated crime, impact on individuals and society is clearly destructive and unacceptable.

Trafficking is understood to have medical, social, legal and economic effects on victims. Trafficked persons are reportedly traumatized by their experiences. Suicidal thoughts are common for them. Besides being stigmatized as outcasts and facing moral and legal isolation, traffic people are vulnerable to HIV/AIDS infections, drug addiction, high-risk abortions, and teenage pregnancies which affects their reproductive health for life.

Efforts should be taken:

The rescue operations could only save a negligible proportion of the victims; the courts could provide justice only to a fraction of the million sex workers who are exploited everyday. If there is no general awareness amongst every citizen of the country, nothing can be achieved. We all have to work together to make this mission a success so that no women of tomorrow is found in a brothel but is seen in an educational institution and hence some concrete measures must be taken as soon as possible. They are as follows:

- ❖ Prevention of poverty and equitable distribution of national income among all classes of society
- ❖ Proper employment facilities must be given.
- ❖ The loopholes in ITPA 1956 must be filled up by a subsequent amendment.
- ❖ The ITPA must provide for a rehabilitation of the children of the sex workers who are badly affected by the environment in the brothels.
- ❖ The media should be used more effectively to create awareness among the people about the trafficking business.
- ❖ Regular programs and campaigns should be conducted in every region of the country to raise awareness.
- ❖ The legislature must enact laws to prohibit all forms of prostitution rather than banning prostitution only in public areas listed in S.7 of ITPA.

Thus, if initiatives are taken, problems can be combated; the menace can be eradicated from our society. If this mission can be accomplished, only then our country can prosper and we must not stop till we reach our object following the great words of Swami Vivekananda, arise, awake and stop not till the goal is reached. If the goal can be achieved, in near future, India will become a nation where the mind is without fear and the head is held high.

Right to Dissent:

Dissent means “a strong difference of opinion on a particular subject, especially about an official suggestion or plan or a popular belief”.

India’s constitutional democracy is predicated on the people’s right to call state power to account.

Right to Dissent granted through Constitutional Provisions:

- ❖ The Preamble to the Constitution of India promises liberty of thought, expression, belief, faith, and worship.

Clauses (a) to (c) of Article 19(1) in Part III (Fundamental Rights) promise:-

- Freedom of speech and expression;
- Freedom to assemble peaceably and without arms;
- And the freedom to form associations or unions;
- These three freedoms are vehicles through which dissent can be expressed.

- However, Article 19(2) authorizes the government to impose reasonable restrictions on freedom of speech and expression in the interest of:
- The sovereignty and integrity of India,
- The security of the State,
- Friendly relations with foreign States,
- Public order,
- Decency or morality or in relation to contempt of court,
- Defamation or incitement to an offense.

Importance of Right to dissent:

1. **Fundamental Right:** The Right to protest peacefully is enshrined in the Indian Constitution, thus protecting it ensures that people get their licit rights.

2. **Historical Context:** The background of the Indian Constitution is formed by its anti-colonial struggle, within which the seeds of a political public sphere and democratic constitution were sown.

-The Indian people fought hard and long to publicly express their views on colonial policies and laws and form a public opinion against them.

3. **Checking Abuse of Power:** The Right to the association is required to form associations for political purposes — for instance, to collectively challenge government decisions and to even aim, peacefully and legally, to displace the government, to not merely check abuse of power but to wrest power.

-The Right to peaceably assemble allows political parties and citizenship bodies such as university-based student groups to question and object to acts of the government by demonstrations, agitations and public meetings, to launch sustained protest movements.

4. **People as Watchdogs:** People act as watchdogs and constantly monitor governments' acts, which provides feedback to the governments about their policies and actions after which the concerned government, through consultation, meetings and discussion, recognizes and rectifies its mistakes.

5. **Supreme Court's Observation:** In Ramlila Maidan Incident v. Home Secretary, Union Of India & Ors. Case (2012), the Supreme Court had stated, "Citizens have a

fundamental right to assembly and peaceful protest which cannot be taken away by an arbitrary executive or legislative action.”

Limitations needed on Right to Dissent:

- ❖ Fundamental rights do not live in isolation. The right of the protester has to be balanced with the right of the other citizens of the country. They have to co-exist in mutual respect.
- ❖ Thus, the constitution itself (in Article 19(2)) imposes certain limitations to the rights granted in Article 19(1).
- ❖ In the Shaheen Bagh Case, the Supreme Court has found the indefinite “occupation” of a public road by the protestors unacceptable. The judgment upheld the right to peaceful protest against the law but made it unequivocally clear that public ways and public spaces cannot be occupied, and that too indefinitely.
- ❖ The Supreme Court has over the years tried to maintain a balance between the right to protest and the government’s power to strike down at the agitators.
- ❖ The ease of access to floating information on Social Media transcends the limitations of communication, and this sort of digital engagement can have detrimental effects, leading to fake news and partial judgment, thus misleading economic, social, or political goals. Thus a need to limit Social media has emerged.

Dissent and democracy are often considered synonymous in a liberal-democratic social order. It is through open debate and discussion that the diversity of perceptions in a democracy gets exposed. Only through continuous interactions on critical issues does the real truth emerge. We owe our independence to Mahatma Gandhi, who had the courage and fortitude to express his dissent in a peaceful manner. In a progressive society, contrary views should be entertained.

UNIT V

Custodial Violence:

- Custodial violence is the violence that takes place in judicial and police custody where an individual who has done a crime is tortured mentally or physically
- Most of the custodial deaths were attributed to reasons other than custodial torture, which included suicide and death in hospitals during treatment
- One of the biggest issues with custodial violence is that it has put human rights at stake. This crime is an outburst against humanity and is one of the many root obstacles in a Democratic country
- Although, overcrowding, malnutrition, unhygienic conditions and lack of medical care are some of the factors of death in police and judicial custody, but custodial violence remains the common cause of deaths in prisons and lock-ups
- Many human rights activists and social workers have found that the worst violations of human rights take place during the course of an investigation when the police, with a view to securing evidence or confessions, often resort to third-degree methods including torture and techniques of arrests by either not recording them or describing the deprivation of liberty merely as “prolonged interrogations”

Causes of Custodial Violence in India:

There are multiple reasons which have led to the increased cases of custodial and judicial violence in the country. A few of the most common causes have been discussed below:

- **Absence of Strict Laws** – It is important that strict and mandatory laws are passed in order to stop custodial violence. In India, custodial violence is yet to be criminalized and an unfair benefit of which has been taken by those in power over the past many decades
- **No Solid Prison Reforms** – The entire prison system is inherently opaque giving less room for transparency. Prisons in India continue to be affected by poor conditions, overcrowding, acute manpower shortages and minimal safety against harm in prisons

- Work Pressure – The police work under extreme pressure and in cases of a quick solution to complex cases, they choose violence to get evidence and confessions
- Social Factor – Considering the approach of “an eye for an eye”, the people in power choose to use violence to get out information from the ones accused of a crime
- Not following International Standards – India had signed the United Nations Convention against Torture in 1997 but its implications are yet to be mandatorily followed in the country

Legal Provisions for Custodial Violence in India:

The following provisions were enacted to curb the tendency of policemen to resort to torture to extract confessions, etc.:

- Sections 330, 331 & 348 of Indian Penal Code (IPC)
- Sections 25 & 26 of the Indian Evidence Act
- Section 76 of Code of Criminal Procedure (CrPC) and Section 29 of the Police Act, 1861

Other important constitutional provisions are as follows:

- Protection from torture is a fundamental right enshrined under Article 21 (Right to Life) of the Indian constitution
- Section 41 of the Criminal Procedure Code (CrPC) was amended in 2009 to include safeguards under 41A, 41B, 41C and 41D, so that arrests and detentions for interrogation have reasonable grounds and documented procedures, arrests are made transparent to family, friends and public, and there is protection through legal representation
- Article 21 of the Indian Constitution provides that no person shall be deprived of life or personal liberty except according to the procedure established by the law.

Amnesty International Court of Justice:

The International Criminal Court (ICC):

Established in 2002, the ICC is a permanent court that can investigate and prosecute people suspected of committing genocide, crimes against humanity, war crimes and (since 2018) the crime of aggression in situations where national authorities are unable or unwilling to act genuinely. A number of cases have been brought before the Court so far and alleged crimes in several countries are currently being investigated or examined by the ICC Prosecutor.

Hybrid courts:

Hybrid courts are usually established to investigate and prosecute large-scale crimes under international law in countries which have gone through conflict or crisis. These courts are often established where the country's own domestic justice system lacks the necessary infrastructure, human resources, legal framework or independence to meet fair trial standards or confront the complexities and political sensitivities of prosecutions. Hybrid tribunals have been established or proposed in a number of countries, including Bosnia, Cambodia and Sierra Leone.

Ad hoc courts:

Two ad hoc tribunals have been established to date: the International Criminal Tribunal for Rwanda, located in Arusha, Tanzania, and the International Criminal Tribunal for the former Yugoslavia, located in The Hague, The Netherlands. Both courts have now closed.

Other mechanisms

Increasingly, human rights monitoring and documenting initiatives and commissions have included international criminal investigation mandates. These bodies should be encouraged to co-operate with and complement international criminal mechanisms and processes wherever possible. One such mechanism, created by the UN General Assembly in 2016, is tasked with collecting evidence of violations in the Syrian civil war to support criminal proceedings in national, regional or international courts, in accordance with international law.

Amnesty promotes International justice:

In addition to campaigning for national authorities to fulfil their obligations to ensure justice, truth and reparation for victims, Amnesty has helped to establish a worldwide system of international justice to step in when they fail to act, including through:

- Campaigning for the establishment and effective operation of the International Criminal Court (ICC).
- Calling on states to exercise universal jurisdiction over crimes under international law.
- Calling for ad hoc international or hybrid courts to be established.
- Strengthening international, regional and national laws to address crimes under international law.
- Amnesty International is also pushing for better access to international justice for victims and for international justice mechanisms to comply with human rights – including respecting the rights of suspects, victims and witnesses in their work.

Function of Court:

Genocide:

Genocide means certain acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group.

Crimes against humanity:

These are crimes committed as part of a widespread or systematic attack against civilians during peace or wartime. They include torture, enforced disappearances, killings, enslavement, deportation and certain crimes of sexual and gender based violence including rape.

War crimes:

War crimes are violations of international humanitarian law that are criminalized under international law. They include wilful killings, targeting

civilians, torture, using poison or poisoned weapons, the murder or ill-treatment of prisoners of war, and crimes of sexual violence.

Enforced disappearance:

Enforced disappearance is an arrest, detention, abduction or any other form of deprivation of liberty by agents of the state or by persons or groups of persons acting with the authorization, support or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

Extrajudicial execution:

Extrajudicial executions are unlawful (without legal process) and deliberate killings carried out by a government (or with their complicity), or by a state official or those acting with the consent or acquiescence of state officials acting without orders.

Impunity:

Impunity is used to describe a situation where someone can commit an offence (intimidation, attacks or murder, for example) without facing punishment or consequences.

National Human Rights Commission: (NHRC)

The National Human Rights Commission (NHRC) established in 1993, is an independent statutory body as per the provisions of the Protection of Human Rights Act of 1993 which was amended in 2006.

- Human Rights are an indispensable part of society and Human Rights in India are watched by NHRC.
- NHRC acts as a watchdog of human rights in the country.
- NHRC looks over the rights that are related to life, dignity, liberty and equality of the individual that is defined in Section 2(1) of the PHR Act.
- They are guaranteed by the Constitution of India, embodied in the international covenants and are enforceable by the courts of India as well.

- NHRC was established in compliance with the Paris Principles of Human Rights, 1991 which were adopted for the promotion and protection of Human Rights and were endorsed by the United Nations at its General Assembly of 1993.

NHRC History:

- In 1948, the UN adopted the UDHR (Universal Declaration of Human Rights).
- In 1991, the Paris Principles were established by the National Human Rights Institutions (NHRIs).
- In 1993, the UN adopted these Paris Principles at its General Assembly.
- In 1993, India enacted the Protection of Human Rights Act.
- This led to the formation of the National Human Rights Commission (NHRC).
- The Protection of Human Rights Act also allowed state governments to establish the State Human Rights Commission.
- NHRC Composition – Members of NHRC
- The National Human Rights Commission (NHRC) is composed of a Chairperson and eight other members.
- Those eight members are:
 - Four full-time members.

-Four deemed members.

Appointment of NHRC Members:

A Selection Committee will recommend the candidates to the President.

The Selection Committee includes:

- Prime Minister (Chairman)
- Speaker of Lok Sabha
- Union Home Minister
- Deputy Chairman of Rajya Sabha
- Leaders of the Opposition in both Houses of the Parliament

Functions & Powers of NHRC:

The functions of the National Human Rights Commission (NHRC) as stated in Section 12 of the Protection of Human Rights Act, 1993 includes enquiry into complaints of violation of human rights or negligence in the prevention of such violation by a public servant. The Commission also studies treaties and international instruments on human rights and makes recommendations for their effective implementation to the Government.

- NHRC can investigate any complaints related to violations of Human Rights in India either suo-moto or after receiving a petition.
- NHRC can interfere in any judicial process that involves any allegation of violation of Human Rights.
- It can visit any prison/institute under the control of the state governments to observe the living conditions of inmates. It can further make recommendations based on its observations to the authorities.
- NHRC can review the provisions of the Constitution that safeguard Human Rights and can suggest necessary restorative measures.
- Research in the field of Human Rights is also promoted by the NHRC.
- Human Rights awareness and literacy through different media are promoted by NHRC in various sectors of society.
- NHRC has the power to recommend suitable steps that can prevent violation of Human Rights in India to both Central as well as State Governments.
- The President of India gets an annual report from NHRC which is laid before both the Houses of the Parliament.

Limitations of NHRC:

It is important to know the limitations of NHRC. They are mentioned below:

- The Recommendations made by the NHRC are not binding.
- Violation of Human rights by private parties cannot be considered under NHRC Jurisdiction.
- NHRC doesn't have the power to penalise the authorities that don't implement its recommended orders.

- 3 of the NHRC members are judges which give the functioning of the Commission a judicial touch.
- The other members that are recommended by the Selection Committee may not necessarily be Human Rights experts.
- The NHRC does not consider the following cases:
 - Cases that are older than one year.
 - Cases that are anonymous, pseudonymous or vague.
 - Frivolous cases.
 - Cases pertaining to service matters.
- The NHRC has limited jurisdiction over cases related to armed forces.
- The NHRC faces other issues like excess cases/complaints, insufficient funds, bureaucratic functioning style, etc.

Major Issues related to NHRC:

India faces Human Rights violations on a large scale due to various reasons. The National Human Rights Commission (NHRC) takes up most of the issues around the country. Some of them are mentioned below:

- Arbitrary arrest and detention
- Custodial torture
- Child labour
- Violence and discrimination against women and children
- Extrajudicial killings
- Excessive powers
- Sexual violence and abuse
- LGBTQ community rights
- SC/ST, disabled people and other religious minority issues
- Labour rights and right to work
- Conflict induced internal displacement
- Manual scavenging

Term & Removal of Chairperson of NHRC:

The Chairperson or the Members of the National Human Rights Commission holds office for a term of three years or until they attain the age of 70 years, whichever is earlier.

Earlier the tenure of office was 5 years or 70 years whichever is earlier but the Protection of Human Rights (Amendment) Bill 2019 brought in certain changes.

The Protection of Human Rights (Amendment) Act, 2019:

The Protection of Human Rights (Amendment) Bill, 2019 has been passed in both Lok Sabha and Rajya Sabha in 2019.

NGO (Non-Governmental Organization):

A non-governmental organization (NGO) is a group that functions independently of any government. It is usually non-profit. NGOs, sometimes called civil society organizations, are established on community, national, and international levels to serve a social or political goal such as a humanitarian cause or the protection of the environment.

For example, NGOs might focus on activities in areas involving health or health emergencies, education, infrastructure, advocacy of minority rights, support of the poor, and the reduction of crime.

Understanding NGOs (Non-Governmental Organizations):

The term NGO is generally accepted to refer to usually non-profit, private organizations that operate outside of government control. Some NGOs rely primarily on volunteers while others support a paid staff. The World Bank identifies two broad groups of NGOs:

- Operational NGOs, which focus on the design and implementation of development projects.
- Advocacy NGOs, which defend or promote a specific cause and seek to influence public policy.

NGOs Work:

A non-governmental organization, or NGO, is an organization established by a group of individuals that wishes to pursue goals and aspirations that relate to the public, social, or political good of a nation or the world.

According to the U.S. State Department, U.S. regulations were created to assist in the formation of NGOs. These regulations have no bias as to the value of any NGO or the kind of work that it does.

NGOs focus on a wide range of issues and areas. These might include women's rights, the health of the environment and planet, healthcare, political advocacy, labor unions, religious faith, care of the elderly, and youth empowerment.

While the government is not involved in the activities of NGOs, U.S. law normally regulates them via their filing of information returns that show an NGO's funding, management, and activities.

Forming an NGO:

Any group of people may form an NGO without government approval or involvement. In addition, one need not be a U.S. citizen to form an NGO in the U.S. However, should an NGO wish to obtain legal benefits such as exemption from state and federal taxes, it should incorporate and register as an NGO under the relevant laws of the state in which it's located.

An NGO doesn't have to incorporate. For instance, to form a charitable NGO, all that's required (as is for any charitable trust) is a legal contract and deed that conveys property.

While no federal government involvement comes into play, states in the U.S. may require NGOs with religious, educational, or charitable missions that may ask for donations to register with a state charity.

NGOs Funded:

NGOs rely on a variety of sources for funding, including:

- Membership dues

- Private donations from individuals, private sector businesses, and philanthropic organizations
- The sale of goods and services
- Grants
- Funding from foreign governments and organizations
- Despite their independence from governments, some NGOs rely heavily on government funding. Large NGOs may have budgets in the millions or billions of dollars.

Activities undertaken by NGOs:

Advocacy, Analysis and Awareness Raising – acting as a voice for people both on a representative and self-appointed basis; researching, analyzing and informing the public about issues; mobilizing citizen action through media campaigns and other forms of activism; and lobbying business leaders and policymakers.

- Brokerage – acting as an intermediary between different sectors and groups.
- Conflict resolution – acting as a mediator and facilitator.
- Capacity Building – providing education, training and information.
- Delivery of services – operational delivery of essential humanitarian, development and/or social services.
- Evaluation and Monitoring – serving as a ‘watchdog’ or third party / independent ‘auditor’, invited and uninvited, of government and corporate performance, accountability and transparency.

Constitutional Provisions for NGOs in India:

- Article 19(1)© on the right to form associations;
- Article 43 which highlights the State’s having an endeavor to promote cooperatives in rural areas;
- Concurrent List in Entry 28 mentions about – Charities and charitable institutions, charitable and religious endowments and religious institutions”.

Consumer redressal cell:

History:

The Consumer Protection Act, 1986 (In short, 'The Act') is a benevolent social legislation that lays down the rights of the consumers and provides their for promotion and protection of the rights of the consumers. The first and the only Act of its kind in India, it has enabled ordinary consumers to secure less expensive and often speedy redressal of their grievances. By spelling out the rights and remedies of the consumers in a market so far dominated by organized manufacturers and traders of goods and providers of various types of services, the Act makes the dictum, *caveat emptor* ('Buyer Beware') a thing of the past.

The Act mandates establishment of Consumer Protection Councils at the Centre as well as in each State and District, with a view to promoting consumer awareness. The Central Council is headed by Minister In-charge of the Department of Consumer Affairs in the Central Government and the State Councils by the Minister In-charge of the Consumer Affairs in the State Governments. It also provides for a 3-tier structure of the National and State Commissions and District Commissions for speedy resolution of consumer disputes.

Objects of the Consumer Protection Act:

In order to help achieve the objects of the Consumer Protection Act, the National Commission has also been conferred with the powers of administrative control over all the State Commissions by calling for periodical returns regarding the institution, disposal and pendency of cases. The National Commission is empowered to issue instructions regarding:

- (1) Adoption of uniform procedure in the hearing of the matters.
- (2) Prior service of copies of documents produced by one party to the opposite parties.
- (3) Speedy grant of copies of documents.
- (4) Generally over-seeing the functioning of the State Commissions and the District Commissions to ensure that the objects and purposes of the Act are best served, without interfering with their quasi-judicial freedom.

Consumer Protection Division is mandated to implement the Consumer Protection Act, 2019 and Rules/Regulations made under the ibid Act. It is entrusted with the framing of policy related to the protection of the interests of the consumers particularly those grievances arising in post sale of goods and services.

Consumer Commissions:

Consumer redressal cell provides for establishment of three-tier quasi-judicial consumer disputes redressal machinery at the District, State and National levels commonly known as “Consumer Commissions” to render simple, inexpensive and speedy justice to consumers. These redressal agencies have the jurisdiction to adjudicate the complaints received from consumers against any defect in the goods purchased or deficiencies in the services availed or any unfair/restrictive trade practices, etc. adopted by any trader or person. Apart from the quasi judicial mechanism, National Consumer Helpline and Zonal Consumer Helplines also addresses consumer grievances under the supervision of this Division.

Three schemes:

- ICGRS (Integrated Consumer Grievance Resolution System),
- SCC (Strengthening of Consumer Commission)
- CONFONET are being implemented in CPU Division for protection of consumer rights in the country.

The Department looks after the establishment and functioning of Central Consumer Protection Authority (CCPA) and National Consumer Disputes Redressal Commission (NCDRC), the apex consumer court. Also constitution of Central Consumer Protection Council is done by Consumer Protection Division.

People’s Union for democratic rights:

Formation:

Over the last 40 years or more, the civil rights movement in India has emerged as an autonomous voice in defense of civil liberties and democratic rights of our people. The Peoples Union for Democratic Rights, Delhi, is one such

organisation. It came into existence in 1977 as the Delhi unit of a larger national forum, PUCLDR, and became PUDR on 1 February, 1981.

In more than 40 years of its existence, PUDR has taken up hundreds of instances of violations of democratic rights, covering most parts of the country and involving the rights of many sections of society. PUDR conducts investigations, issues statements, distributes leaflets, organizes public meetings, demonstrations and dharnas, initiates campaigns, petitions authorities and fights legal cases to highlight the violation of people's rights and help towards their redressal.

Aims of PUDR:

Through its investigations, PUDR has raised the issues of custodial rapes, deaths and torture, consistently fought for the rights of marginalized peasants and agricultural workers, upheld working class rights across different sectors, campaigned for gender equality both at home and outside, opposed caste oppression and communal violence and, articulated the rights and access of people and communities towards equitable resources. PUDR opposes bans and upholds the right to freedom of speech, expression and association. For almost two decades PUDR has demanded the repeal of death penalty and has actively taken up the rights of those who have been condemned to the death row.

Along with these, it has actively campaigned against anti-democratic legislations such as TADA, POTA, UAPA, AFSPA and others, and has engaged itself in legal defense of civil liberties and democratic rights. Some of PUDR's legal interventions have been of critical importance such as the Asianlabour petition which opened the doors to public interest litigation in India.

PUDR has always worked closely with similar democratic rights organizations located in different states and regions such as:

- the Andhra Pradesh Civil Liberties Committee (APCLC).
- the Association for Protection of Democratic Rights (APDR), West Bengal.
- the People's Union for Civil Liberties, (PUCL).
- Committee for the Protection of Democratic Rights (CPDR), Mumbai and many others.

Several reports and activities have been jointly undertaken and in recent times PUDR has been an active member of Coordination of Democratic Rights Organization (CDRO), a wider body of non-funded, democratic rights organizations.

Membership in PUDR is entirely on a voluntary basis and activists meet on a weekly basis to help organize activities. Activists are not paid for giving their time or for undertaking activities and funds are generated solely from the sale of literature and from small donations of not more than Rs 3000. PUDR does not accept foreign funds, or funds from any institutional funding agencies, foreign or national.