

**MA Education 3<sup>rd</sup> Semester**

**Course Code: EDUCE203**

**Course Type / Nature: Discipline Elective**

# **EDUCATION FOR HUMAN RIGHTS**

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**Course Type / Nature:** Discipline Elective, **Course Code:** EDUCE203

**Course Title:** **EDUCATION FOR HUMAN RIGHTS**

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## **Syllabus**

**Course Type / Nature:** Discipline Elective

**Course Code:** EDUCE203

**Course Title:** **EDUCATION FOR HUMAN RIGHTS**

**Credits = 6** {Marks = 100 (70 + 30)}

### **Course Objectives**

To enable the learners to;

1. understand concept of citizenship & Human Rights Education.
2. perceive need and importance of citizenship & Human Rights Education.
3. understand correlative nature of citizenship Education and its role in various contemporary issues.
4. identify importance of Human Rights awareness in existing social scenario.
5. learn methodology for developing Human Rights awareness and qualities of good citizenship.
6. comprehend role of Government & non-government organizations, press and media in citizenship and Human Rights Education.

### **INSTRUCTIONS FOR THE PAPER SETTER AND CANDIDATES**

The question paper for ESE will carry a total of 70 marks and consist of five sections: A, B, C, D & E. Section A will consist of 6 objective type questions (MCQ, True/False, Completion type) carrying one mark each and 4 short answer type questions carrying 2 marks each which will cover the entire syllabus uniformly. Sections B, C, D & E will have two long answer type questions from the respective Units 1, 2, 3 & 4 of the syllabus & carry 14 marks each. The long answer type questions may contain subparts carrying different marks. The marks for each sub-part and required word limit will be shown against it. Section A of the question paper will be compulsory and the candidates are required to attempt one question (and/or its sub-parts) each from the sections B, C, D and E of the question paper. Answers to short questions should be completed in around 80 to 100 words each. Answers to long answer type question should be completed in around 800 words.

#### **Unit 1: Human Rights – An Introduction**

- Concept, Characteristics and Significance of Human Rights.
- History and Classification of Human Rights
- Causes of Human Rights Violation; Forms of Human Rights Violation: Violence (Domestic and Workplace) against Women, Child Labour and Child Abuse; National and International Scenario of Human Rights Violation with reference to Children and Women.

#### **Unit 2: Human Rights Education**

- History of Human Rights Education
- Human Rights Education at Different Levels of Education: Concept, Significance, Objectives, Principles, Teaching Strategies and Place of Human Rights in Curriculum.

- Famous Indian and International Activists for Protection of Human Rights.
- Activities in Schools for Promoting Human Rights Awareness among Children.

### **Unit 3: Enforcement of Human Rights**

- Formal Mechanism for the Enforcement of Human Rights (Role of Different UN Organs, International Agencies, National and State Level Agencies, NGOs in Enforcement of Human Rights).
- Universal Declaration of Human Rights, 1948.
- Constitutional Provisions for Human Rights Protection of Women, SCs, STs and Minorities.
- Role of Press and Media for Promotion of Human Rights Education among Masses.

### **Unit 4: Acts and Agencies for Human Rights Enforcement**

- Government Programmes related to Child Welfare and Development - ICDS and ICPS; Juvenile Justice (Care and Protection) Act, 2006
- Life-Saving Technologies: Organ Transplant and Sale, Right to Clean Environment and Public Safety, Right to Die in Dignity, Transparency in Governance and Right to Information.
- Composition, Functions and Powers of National and State Level Human Rights Commission
- International and National Acts and Conventions for Protection of Human Rights of Children and Women.

### **Sessional Work / Activities --- Marks = 5 (under CCA Component)**

*A candidate is required to undertake any one of the following activities and submit a detailed report to the concerned teacher / PCP Coordinator. The activity will carry 5 marks:*

1. Case Study of a School - Identifying activities and curricular content helpful in Citizenship development or Preparation of scrap book on any six major human rights violation issues.
2. Case Study of any organization working in the area of human Rights Education or Conduct a survey in village/slum area regarding awareness among women on human rights and legal literacy.
3. Any other activity / activities that the concerned course teacher may think appropriate, can be allotted during PCP to the candidates.

## **Unit 1**

### **Concept, Characteristics and Significance of Human Rights Human Rights**

#### **Structure**

- 1.1 Introduction
- 1.2 Learning Objectives
- 1.3 Concept, Characteristics and Significance of Human Rights  
Self-Check Exercise - 1
- 1.4 Summary
- 1.5 Glossary
- 1.6 Answers to Self-Check Exercise
- 1.7 References/Suggested Readings
- 1.8 Terminal Questions

#### **1.1 Introduction**

Dear learner, this unit deals with meaning, concept, characteristics, significance of human rights.

#### **1.2 Learning Objectives**

After completing this unit, you will be able to;

- describe the meaning and concept of human rights.
- discuss the characteristics of human rights.
- describe the significance of human rights.

#### **1.3 Meaning and Concept of Human Rights**

The literal meaning of the word 'right' is something to which we are entitled. The word in ordinary English usage not only implies a "lawful entitlement" but a "just entitlement". This entitlement is due to various factors such as law, custom and morality. The rules and principles cause an individual to have rights. A J.H. Milne has rightly said that, "There can be no human community without rights. Having rights is part of what is to be member of any community. A community necessarily consists of members, who have rights and obligations. Unless there are members, there cannot be community. There have to be rights if there is to be any social life.

Thus, rights enable an individual with at least some of the elements of a place, an identity and a role in the social milieu". Human rights are those rights, which are considered to be absolutely essential for the survival of all human beings. These basic rights, which when denied to human beings create immense sufferings for the individuals, and tensions in the society. Being the basis of any humane society, they have also been referred to as "Fundamental Rights", "Basic Rights", "Natural Rights" and above all "Human Rights".

## **Definitions**

There are still divergent views and perceptions about the meaning and nature of human rights. As the concept of human rights is a complex and contradictory one, it is desirable to go through some of the standard definitions offered by different scholars from time to time.

Charter of United Nations has accepted the natural law concept of human rights i.e. the "rights to which all human beings have been entitled since time immemorial and to which they will continue to be entitled as long as the humanity survives".

Universal Declaration of Human Rights (1948) mentioned that, "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".

National Commission on Human Rights (NCHR), 1993, Section 2(d) of the Act defined Human Rights as, "the rights relating to life, liberty, equity and dignity of the individuals guaranteed by the constitution or embodied in the International Covenants and enforceable by courts in India".

D.D. Basu defined Human Rights as, "those minimum rights which every individual must have against the state or other public authority by virtue of his being a member of human family, irrespective of any other consideration".

From the above definitions of human rights, it is clear that human rights, whether recognized or not, belong to all human beings at all times and in all places. These are the rights, which are solely by virtue of being human, irrespective of any distinction.

## **Characteristics of Human Rights**

After the Universal Declaration of Human Rights by the UN General Assembly on December 10, 1948, the concept of Human Rights assumed a significance of its own though earlier than this, International Labour Organisation in 1920 also initiated the Conventions on the rights of workers to form unions and organisations, abolition of forced labour and right to collective bargaining. The UN Charter in 1945 affirmed faith in the fundamental human rights and appointed a Commission on Human Rights under Mrs E. Roosevelt. This declaration was the outcome of the latter's deliberations A.A. Said aptly remarked "The concept of Human Rights may be difficult to define but impossible to ignore". The Human Rights are concerned with the dignity of the individual -the level of self-esteem that secures personal identity and promotes human community. The main characteristics of Human Rights are:

- Human Rights are intrinsic to human being

- Human Rights are essential for every human being. They cannot be categorized as the preserve of one particular nation but are in fact the possession of mankind as a whole.
- Just like that of moral rights the element of their enforcement lies in the individual's conscience.
- Human Rights recognize the inherent dignity and of the equal and inalienable rights of all members of the human family.
- Human Rights are absolutely essential for the survival, existence and personality development of a human being.
- Human Rights directed towards the creation of societal conditions by the state in which individuals are to develop their fullest potential.
- Human Rights are based on elementary human needs, psychic survival and health.
- These are the rights, which are solely by virtue of being human, irrespective of any distinction.
- Human Rights and principles are absolute and universal in nature.

### **Significance of Human Rights**

The UDHR, together with the International Covenant on Civil and Political Rights (ICCPR), its two Optional Protocols, and the International Covenant on Economic, Social and Cultural Rights (ICESCR), form what is known as International Bill of Human Rights. All the International human rights law lays down obligations which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to **respect** means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to **protect** requires States to protect individuals and groups against human rights abuses. The obligation to **fulfil** means that States must take positive action to facilitate the enjoyment of basic human rights. Through ratification of international human rights treaties, Governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties. Universal human rights should be applied to all persons without distinction of any kind: we are all human beings, so we are all entitled to enjoy these rights. The effective and good governance requires that all work of the State be informed by fundamental democratic principles underpinning human rights. The five pillars of good governance – transparency in decision-making processes, ensuring people's participation, responsibility in the exercise of power, accountability of the decision-makers and responsiveness to people's needs – uphold the edifice of sustainable democracy. Anything less will result in despotism and tyranny of power. A human rights lens on democracy and governance not only privileges justice and equity above all but most importantly takes the provision for human well-being by governments from mere promises into the realm of precise legal obligation. These fundamental human rights should be "a common standard of achievement for all peoples and nations" - UDHR Preamble. They are the basic rights that all human beings should enjoy, respect and protect. Kofi Annan, Secretary-general of the United

Nations has rightly observed that, “Human rights are what reason requires and conscience demands. They are us and we are them. Human rights are rights that any person has as a human being. We are all human beings; we are all deserving of human rights. One cannot be true without the other.” Remember that, as Eleanor Roosevelt said, “the destiny of human rights is in the hands of all our citizens in all our communities.” In the light of above discussion following points highlights the significance of human rights:

- Human Rights are essential for development of the human personality.
- Human Rights strengthen the development process.
- Environmental rights ensure the people to live in healthy environment which should be free from pollution.
- Human Rights are important for the proper development of the individual.
- Article 25(1) of United Nation Universal Declaration on Human Rights has declared that “Right to Housing” is basic Human Rights.
- In India, HIV/AIDS Draft Bill, 2004 has been drafted which spells out right to equality, right to privacy, right to safe working environment, right to information, right to marry and start a family, right to autonomy and most importantly right to work to the AIDS-suffering persons.

### Self-Check Exercise - 1

Q.1 Who said, “the destiny of human rights is in the hands of all our citizens in all our communities”.

## 1.4 Summary

Dear Learner in this unit we have discussed the meaning and concept of human rights, characteristics of human rights, significance of human rights, historical background and various classification of human rights in detail.

## 1.5 Glossary

**Civil rights:** (sometimes known as civil liberties); a category of rights and freedoms that protect individuals from unwarranted government action and ensure their ability to participate in the civil life of the state without discrimination or repression.

**Collective rights:** the rights of groups to protect their interests and identities; sometimes referred to as ‘third generation rights’. These rights exist in addition to individual rights.

**Civil society:** refers collectively to voluntary civic and social organizations, associations and institutions, for example registered charities, non-governmental organizations, community groups, women’s organizations, faith-based organizations, professional associations, trade unions, self-help groups and advocacy groups that form the basis of a functioning democratic society. Civil society is seen as distinct from the state and commercial institutions of the market.



## **1.6 Answers to Self-Check Exercise**

### **Self-Check Exercise - 1**

**Answer:** Eleanor Roosevelt

## **1.7 References/Suggested Reading**

Basu, D.D. (1994). Human Rights in Constitutional Law, Prentice hall of India Pvt. Ltd, New Delhi.

Louis B. Sohn (1982). The New International Law: Protection of the Rights of Individuals Rather than States, Thomas Buergenthal and Dinah Shelton, Supra No. 50, PP. 9-17.

Sen, A.N. (2002). Human Rights, Sri Sai Law Publications, Faridabad, Haryana.

Singh, Nagendra (1981). Human Rights and the Future of Mankind, Vanity Books, Delhi.

Talesra, Hemlata, Pancholy, Nalini and Nagda, Mangilal (2000). Human Rights Education: A Global Perspective, Regency Publications, New Delhi.

Tarrow Bernstein, Norma (1987). Human Rights and Education. Pergamon Press. USA.

United Nations (1989). Teaching Human Rights, New York.

## **1.8 Terminal Questions**

1. Describe the meaning and concept of human rights.
2. Discuss the characteristics of human rights.
3. Describe the significance of human rights.

## Unit 2

### History and Classification of Human Rights

#### Structure

- 2.1 Introduction
- 2.2 Learning Objectives
- 2.3 Historical Background and Classification of Human Rights  
Self-Check Exercise - 1
- 2.4 Summary
- 2.5 Glossary
- 2.6 Answers to Self-Check Exercise
- 2.7 References/Suggested Readings
- 2.8 Terminal Questions

#### 2.1 Introduction

Dear learner, this unit deals with historical background and classification of human rights.

#### 2.2 Learning Objectives

After completing this unit, you will be able to;

- explain the historical background and various classification of human rights.

#### 2.3 Historical Background of Human Rights

The belief that everyone, by virtue of her or his humanity, is entitled to certain human rights is fairly new. Its roots, however, lie in earlier tradition and documents of many cultures; it took the catalyst of World War II to propel human rights onto the global stage and into the global conscience. Originally, people had rights only because of their membership in a group, such as a family. Then, in 539 BC, Cyrus the Great, after conquering the city of Babylon, did something totally unexpected—he freed all slaves to return home. Moreover, he declared people should choose their own religion. The Cyrus Cylinder, a clay tablet containing his statements, is the first human rights declaration in history. The idea of human rights spread quickly to India, Greece and eventually Rome. The most important advances since then have included:

**1215: The Magna Carta** - gave people new rights and made the king subject to the law.

**1628: The Petition of Right** - set out the rights of the people.

**1776: The United States Declaration of Independence** - proclaimed the right to life, liberty and the pursuit of happiness.

**1789: The Declaration of the Rights of Man and of the Citizen** - a document of France, stating that all citizens are equal under the law.

**1948: The Universal Declaration of Human Rights** - the first document listing the 30 rights to which everyone is entitled.

## **Classification of Human Rights**

The classification of Human Rights can be done from three different angles. i.e. (i) General classification; (ii) Classification according to Louis B. Sohn (iii) Classification according to Universal Declaration of Human Rights.

### **(i) General Classification**

The human rights can be classified in the following order:

- The right to live.
- The right to speak (freedom of speech)
- The right to form association.
- The right to move.
- The right to reside.
- The right to own property.
- The right to earn livelihood.
- The right to work.
- The right to be entitled to a fair wage.
- The right to vote.
- The right to trade.
- The right of access to justice.
- The political right
- The right to education
- The right to health
- The right to adequate food
- The right to culture

- The right to adequate shelter and services
- The right to family
- The right to leave any country including his own and to return to his country

## **(ii) Classification according to Louis B. Sohn**

*The first generation rights* are those that were concerned mainly with the civil and political rights of the individual or the 'liberty-oriented' rights.

*The second generation rights* are those which can be said to be 'security-oriented' and provide for social, economic and cultural security.

*The third generation of Human Rights* are of relatively recent origin. They have evolved in response to various new concerns over which international consensus has emerged in recent years. These include environmental, cultural and developmental rights. They are concerned with rights of groups and peoples rather than of individuals and include such rights as the right to self-determination and the right to development.

## **(iii) Classification of Human Rights According to Universal Declaration of Human Rights**

In Universal Declaration of Human Rights (1948), the first two articles are fundamental principles underlying all human rights.

- (1) Civil and Political Rights (Articles 3 to 21)
- (2) Economic, Social and Cultural Rights (Articles 22 to 27)
- (3) Universal Human Rights.

## **Self-Check Exercise - 1**

Q.1 Which articles of Universal Declaration of Human Rights belongs to civil and political rights.

## **2.4 Summary**

Dear Learner in this unit we have discussed the historical background and various classification of human rights in detail.

## **2.5 Glossary**

**Democracy:** a form of government where the authority to govern is derived from the people, either by direct referendum or by means of representatives elected by the people entitled to vote.

**Discrimination:** any distinction, exclusion or restriction or preference, which is based on any ground such as race, culture, ethnic origin, nationality, sexual orientation, religion, physical handicap, or other characteristics not relevant to the issue in question.

**Gender:** A social construct that informs roles, attitudes, values and relationships between women and men. While sex is determined by biology - the biological differences between men and women - gender is determined by society; almost always functioning to subordinate women to men.

## **2.6 Answers to Self-Check Exercise**

### **Self-Check Exercise – 1**

**Answer:** Article 3 to 21 of Universal Declaration of Human Rights belongs to Civil and Political Rights.

## **2.7 References/Suggested Reading**

Basu, D.D. (1994). Human Rights in Constitutional Law, Prentice hall of India Pvt. Ltd, New Delhi.

Louis B. Sohn (1982). The New International Law: Protection of the Rights of Individuals Rather than States, Thomas Buergenthal and Dinah Shelton, Supra No. 50, PP. 9-17.

Sen, A.N. (2002). Human Rights, Sri Sai Law Publications, Faridabad, Haryana.

Singh, Nagendra (1981). Human Rights and the Future of Mankind, Vanity Books, Delhi.

Talesra, Hemlata, Pancholy, Nalini and Nagda, Mangilal (2000). Human Rights Education: A Global Perspective, Regency Publications, New Delhi.

Tarrow Bernstein, Norma (1987). Human Rights and Education. Pergamon Press. USA.

United Nations (1989). Teaching Human Rights, New York.

## **2.8 Terminal Questions**

- Explain the historical background of human rights.
- Explain the various classifications of human rights.

## Unit 3

### Causes of Human Rights Violation

#### Structure

- 3.1 Introduction
- 3.2 Learning Objectives
- 3.3 Causes of Human Rights Violation  
Self-Check Exercise - 1
- 3.4 Summary
- 3.5 Glossary
- 3.6 Answers to Self-Check Exercise
- 3.7 References/Suggested Readings
- 3.8 Terminal Questions

#### 3.1 Introduction

Dear learner, this unit deals with different causes of human rights violation in India.

#### 3.2 Learning Objectives

After completing this unit, you will be able to;

- explain different causes of human rights violation in India.

#### 3.3 Causes of Human Rights Violation

The concepts of justice, equality and democracy, all of which are necessary for a peaceful and thriving community. The various causes of human rights violations are as under:

**Lack of respect for the rule of law:** When governments or institutions neglect laws intended to safeguard human rights, a situation is created in which human rights can be violated with impunity.

**Political repression:** Human rights transgressions are frequently committed by governments seeking to suppress dissent, opposition, or criticism.

**Inequality and poverty:** Inequality and poverty can lead to a scenario in which certain groups are marginalised and excluded from society, making them vulnerable to human rights violations.

**Lack of accountability:** When people who violate human rights are not held accountable for their conduct, a culture of impunity develops, which can promote additional abuses.

**Lack of knowledge and awareness:** Lack of human rights education and awareness can make it difficult for individuals to recognise when their rights are being infringed or to advocate for their rights.

### **Self-Check Exercise - 1**

Q.1 List any two causes of human rights violations.

### **3.4 Summary**

Dear Learner in this unit we have discussed different causes of human rights violation in India.

### **3.5 Glossary**

**Citizenship:** a) a legal relationship between a person and a state, resulting in mutual rights and obligation or b) used to describe the general relationship between individuals and the state to which they are “attached”, including expected forms of behaviour and attitudes.

### **3.6 Answers to Self-Check Exercise**

#### **Self-Check Exercise - 1**

**Answer:** The two causes of human rights violations are:

- Lack of respect for the rule of law
- Inequality and poverty

### **3.7 References/Suggested Reading**

Basu, D.D. (1994). Human Rights in Constitutional Law, Prentice hall of India Pvt. Ltd, New Delhi.

Louis B. Sohn (1982). The New International Law: Protection of the Rights of Individuals Rather than States, Thomas Buergenthal and Dinah Shelton, Supra No. 50, PP. 9-17.

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Talesra, Hemlata, Pancholy, Nalini and Nagda, Mangilal (2000). Human Rights Education: A Global Perspective, Regency Publications, New Delhi.

Tarrow Bernstein, Norma (1987). Human Rights and Education. Pergamon Press. USA.

United Nations (1989).Teaching Human Rights, New York.

### **3.8 Terminal Question**

1. Explain any four prominent causes of human rights violation in India.

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## Unit 4

### **Forms of Human Rights Violation: Violence (Domestic and Workplace) against Women, Child Labour and Child Abuse**

#### **Structure**

- 4.1 Introduction
- 4.2 Learning Objectives
- 4.3 Forms of Human Rights Violation: Violence (Domestic and Workplace) against Women, Child Labour and Child Abuse  
Self-Check Exercise - 1
- 4.4 Summary
- 4.5 Glossary
- 4.6 Answers to Self-Check Exercise
- 4.7 References/Suggested Readings
- 4.8 Terminal Questions

#### **4.1 Introduction**

Dear learner, this unit deals with the forms of human rights violation: violence (domestic and workplace) against women, child labour and child abuse.

#### **4.2 Learning Objectives**

After completing this unit, you will be able to;

- describe various forms of human rights violation: violence (domestic and workplace) against women, child labour and child abuse.

#### **4.3 Forms of Human Rights Violation: Violence (domestic and workplace) against Women, Child Labour and Child Abuse**

The National Commission for Women has registered 16584, 22422, 32118 and 9786 cases of violation of rights of women in 2012-13, 2013-14, 2014-15 and 2015-16 (till date) respectively.

Poverty, illiteracy, male dominancy in resource control and social acceptance of violence make children and women more vulnerable to violence. The problem persists over generations and results in an economic burden on the families for healthcare and disability.

The reasons for violation of child rights include violations under the Right of Children to Free and Compulsory Education Act, 2009 and violation under the Protection of Children from Sexual Offences Act, 2012. Child rights violations are also related to displacement, violence, trafficking, etc. The actions taken by National Commission for Protection of Child Rights include conduct of summon hearings and giving directions to concerned officials, giving recommendations to State Governments, etc. The Government has also enacted several laws such as the Juvenile Justice (Care and Protection of Children) Act, 2000, the Protection of Children from Sexual Offences Act, 2012, the Prohibition of Child marriage Act, 2006 and is implementing schemes for the protection of children such as the Integrated Child Protection Scheme, etc.

The reasons for violation of women rights include: domestic violence, outraging the modesty of women, dowry harassment, property dispute, rape, etc. Action taken by the National Commission for Women includes forwarding the complaints: to the opposite party for their written submission by issuing letters/ notices; to the concerned authorities seeking action taken reports; and to other concerned authorities/other Commissions/State Women Commissions and if required, constituting Inquiry Committees under section 8 of the National Commission for Women Act, 1990. Other actions taken by the Government include enforcement and implementation of laws and programme for the protection of women such as Protection of Women from Domestic Violence Act, 2005, Dowry Prohibition Act, 1961, Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013, One Stop Centres, Women Helpline, etc.

The other steps taken/being taken by the Government to protect/restore rights of women and children include: National Policy for Children, 2013, Guidelines Governing Adoption, 2015; the Integrated Child Development Services; Beti Bachao Beti Padhao Scheme; Rajiv Gandhi Scheme for Empowerment of Adolescent Girls; Indira Gandhi Maitritva Sahyog Yojana; organizing of Special Mahila Gram Sabhas, Nari Chaupals, Beti Janmahotsava, etc.

### **Forms of Human Rights Violations:**

**Extrajudicial execution:** Security personnel in Jammu & Kashmir have been accused of utilizing excessive force against civilians, resulting in multiple deaths and injuries. The usage of pellet guns has resulted in several deaths and injuries. Similarly, there have been reports of extrajudicial murders by security personnel conducting counter-insurgency operations in India's northeast. Security personnel in states such as Manipur, Assam, and Nagaland have been accused for carrying out extrajudicial killings of suspected militants and civilians under the pretence of encounter. "According to Article 3 of the Universal Declaration of Human Rights, "everyone has the right to life, liberty, and security of person." This right is violated through extrajudicial killing, which is the purposeful death of a person without a lawful trial or judicial procedure.

**Arbitrary detention:** Dalits, also known as Scheduled Castes, are a historically marginalized population who confronts many types of discrimination and violence. The police have been accused of employing excessive force against Dalits, and there have been several reports of Dalit people who die in custody. Similarly, Muslims in India have faced police assault while in custody. There have been complaints of police violence during protests against the Citizenship Amendment Act (CAA) and the National Registry of Citizens in recent years (NRC). Muslim

people have also been detained under harsh laws like the Unlawful Activities (Prevention) Act (UAPA) and the National Security Act (NSA), both of which allow for detention without trial and have been condemned for being used to silence dissent.

According to Article 9 of the UDHR, “no one shall be subjected to arbitrary arrest, imprisonment, or expulsion.” Arbitrary detention is defined as restraining an individual with no legal basis or without following necessary legal processes.

According to Article 2 of the UDHR, “everyone is entitled to all the rights and freedoms enshrined in this Declaration, without regard to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other position.” Discrimination is defined as treating someone unjustly or differently because of a certain attribute, such as race, gender, or religion.

### **Forced evictions:**

Many Adivasi groups were evicted from their homes and lands in Chhattisgarh in 2005 as a result of the creation of the Salwa Judum camps, a state-sponsored vigilante organisation intended at suppressing Maoist insurgency in the region. Adivasi groups have been displaced from their homes and lands, resulting in the loss of traditional livelihoods and access to natural resources, as well as social and cultural upheavals.

The state government has forcibly evicted over 200 Adivasi people from Chhattisgarh from their homes in Telangana. These families had moved to Telangana in quest of work and had lived on government land in the forest areas. They were, however, evicted by the Telangana Forest Department for disobeying forest restrictions.

Forced evictions and relocation can result in the loss of land, residences, and other types of property, which can have an economic and social impact.

According to Article 13 of the UDHR, “everyone has the right to free movement and residence within the borders of each state.” Individuals are forcibly removed from their homes or communities, frequently as a result of conflict, persecution, or construction projects which in turn lead to violation of rights.

### **Restriction on freedom of speech and expression:**

- 1) During farmers’ protests against new agriculture rules in January 2021, regions of India experienced major internet outages. The shutdowns disrupted access to information, education, and healthcare, and had a disproportionate impact on marginalized communities.
- 2) Restrictions on freedom of speech and assembly, including the use of sedition charges against critics of the government.
- 3) Use of draconian laws such as the National Security Act (NSA) and Public Safety Act (PSA) to detain individuals without trial.

Article 19 of the Universal Declaration of Human Rights guarantees freedom of expression. It recognizes that individuals have the right to hold and express opinions without fear of censorship or persecution, and that they should be free to seek, receive, and impart information and ideas through any means. But these incidents created suppression of human expression and speech.

### **Racism based on religion:**

In India, there have been several violent atrocities against religious minorities, including mob lynchings of Muslims and Dalits. These attacks have heightened fears in India about communal conflict and the protection of vulnerable populations. Yet, there are accusations that the government has done insufficient to confront the problem, and that some politicians have even condoned or encouraged the violence. There have been several instances of violence against minorities, particularly Muslims, in India in recent years. This includes the communal riots in Delhi in February 2020, where at least 53 people were killed, most of them Muslims. These incidents violate the right to life and security of person (Article 3) and the right to equality and non-discrimination (Article 2 and 7) enshrined in the UDHR.

### **Self-Check Exercise - 1**

Q.1 Highlight the salient feature of Article 9 of the UDHR.

## **4.4 Summary**

Dear Learner in this unit we have discussed various forms of human rights violation: violence (domestic and workplace) against women, child labour and child abuse in detail.

## **4.5 Glossary**

**Tolerance:** willingness to accept behaviour and beliefs which are different from your own, although you might not agree with or approve of them.

**Slavery:** a practice based on a relationship of power and submission, whereby one person owns another and can exact labour or other services from that person. Modern forms of slavery include: the sale of children, child prostitution, the exploitation of child labour, the use of children in armed conflicts, debt bondage, the traffic in persons, the exploitation of prostitution and forced labour.

**Refugee:** someone who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality, and is unable to, or owing to such fear, is unwilling to avail him or herself of the protection of that country. The term is also used in a general way to describe anyone in a refugee-like situation, for instance asylum seekers.

## **4.6 Answers to Self-Check Exercise**

### **Self-Check Exercise - 1**

**Answer:** According to Article 9 of the UDHR, “no one shall be subjected to arbitrary arrest, imprisonment, or expulsion.” Arbitrary detention is defined as restraining an individual with no legal basis or without following necessary legal processes.

#### **4.7 References/Suggested Reading**

Basu, D.D. (1994). Human Rights in Constitutional Law, Prentice hall of India Pvt. Ltd, New Delhi.

Louis B. Sohn (1982). The New International Law: Protection of the Rights of Individuals Rather than States, Thomas Buergenthal and Dinah Shelton, Supra No. 50, PP. 9-17.

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United Nations (1989). Teaching Human Rights, New York.

#### **4.8 Terminal Question**

1. Explain the various forms of human rights violation against women and child abuse.

## **Unit 5**

### **National and International Scenario of Human Rights Violation with reference to Children and Women**

#### **Structure**

- 5.1 Introduction
- 5.2 Learning Objectives
- 5.3 National and International scenario of human rights violation with reference to children and women  
Self-Check Exercise - 1
- 5.4 Summary
- 5.5 Glossary
- 5.6 Answers to Self-Check Exercise
- 5.7 References/Suggested Readings
- 5.8 Terminal Questions

#### **5.1 Introduction**

Dear learner, this unit deals with National and International scenario of human rights violation with reference to children and women in India.

#### **5.2 Learning Objectives**

After completing this unit, you will be able to;

- discuss the National and International scenario of human rights violation with reference to children and women in India.

#### **5.3 National and International Scenario of Human Rights Violation with Reference to Children and Women**

##### **Self-Check Exercise - 1**

##### **Q.1**

#### **5.4 Summary**

Dear Learner in this unit we have discussed the National and International scenario of human rights violation with reference to children and women.

#### **5.5 Glossary**

**United Nations:** an international intergovernmental organization (IGO) founded in 1945 after the Second World War with the aim of maintaining international peace and security, developing friendly relations among nations and promoting social progress, better living standards and human rights.

**UNICEF:** (United Nations Children's Fund); advocates for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF is guided by the Convention on the Rights of the Child and strives to establish it as an international standard for all behaviour towards children.

**United Nations Security Council (UNSC):** one of the principal organs of the United Nations and is charged with the maintenance of international peace and security. It has 5 permanent members, each of which has the power to veto any decision by the Security Council, and 10 non-permanent members.

## **5.6 Answers to Self-Check Exercise**

### **Self-Check Exercise - 1**

**Answer:**

## **5.7 References/Suggested Reading**

Basu, D.D. (1994). Human Rights in Constitutional Law, Prentice hall of India Pvt. Ltd, New Delhi.

Louis B. Sohn (1982). The New International Law: Protection of the Rights of Individuals Rather than States, Thomas Buergenthal and Dinah Shelton, Supra No. 50, PP. 9-17.

Sen, A.N. (2002). Human Rights, Sri Sai Law Publications, Faridabad, Haryana.

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Tarrow Bernstein, Norma (1987). Human Rights and Education. Pergamon Press. USA.

United Nations (1989). Teaching Human Rights, New York.

## **5.8 Terminal Question**

1. Discuss the National scenario of Human Rights Violation with reference to children and women in India

## **Unit 6**

### **History of Human Rights Education**

#### **Structure**

- 6.1 Introduction
- 6.2 Learning Objectives
- 6.3 History of Human Rights Education
  - Self-Check Exercise - 1
- 6.4 Summary
- 6.5 Glossary
- 6.6 Answers to Self Check Exercise
- 6.7 References/Suggested Readings
- 6.8 Terminal Questions

#### **6.1 Introduction**

Dear Learner this unit deals with the history of human rights education is discussed in detail.

#### **6.2 Learning Objectives**

After completing this unit, you will be able to;

- discuss the history of human rights education.

#### **6.3 History of Human Rights Education**

Human rights education is all learning that develops the knowledge, skills and values of human rights. History of Human Rights Education can be explained as following:

- The General Conference of UNESCO (1974) first time adopted the recommendations, (i) Education for International Understanding, Cooperation and Peace; (ii) Education relating to Human Rights and Fundamental Freedoms.
- UNESCO (1978) in Vienna and UNESCO (1987) in Malta, International congress on Human Rights teaching, information and documentation were held to frame long-term actions of the organization.
- UNESCO (1993) organized third congress in Montreal, Canada, and adopted a World Plan of Action on Education for Human Rights and Democracy.



- The United Nations World Conference on Human Rights (1993) held in Vienna advocated the relevant actions for the promotion of human rights and Human Rights Education.
- The National Human Rights Commission was launched in 1993 and its chairman Mr. Ranganath Mishra said in 1994 that the subject of human rights in all its dimensions would find a clear place in the curriculum.
- The General Assembly, in 1994 proclaimed the period 1995 to 2004 as the United Nations Decade for Human Rights Education.
- National Council for Teacher Education, (11 March, 1996) released a self-learning module on Human Rights and National Values.
- In April 2004, Commission on Human Rights adopted resolution 2004/71 in which it took note of the need and importance to continue a global framework for Human Rights Education beyond the decade.

### **Self-Check Exercise - 1**

Q.1 Who was first chairman of National Human Rights Commission of India.

### **6.4 Summary**

Dear Learner in this unit we have discussed the history of human rights education.

### **6.5 Glossary**

**Sustainable development:** development that meets the needs of the present without compromising the ability of future generations to meet their own needs. The term was first used by the World Commission on Environment and Development (WCED), convened by the UN in 1983.

**Simulation:** an extended, structured role-play that takes the participants into unfamiliar situations and roles.

**Skill:** an ability to do an activity or job well, especially because you have practiced it. The ability to defend human rights includes, for example, skills of communication, problem-solving, creative thinking, negotiation and teamwork.

**Peace-building:** (including post-conflict peace building); actions undertaken over the medium and longer-term to address the root-causes of violent conflicts.

**Intercultural:** refers to the interdependency and interaction between various linguistic and ethnic communities. An intercultural perspective requires us to recognize that reality is plural, complex and dynamic, and that interaction is an integral part of all life and culture.

### **6.6 Answers to Self-Check Exercise**

### **Self-Check Exercise - 1**

**Answer:** Mr. Ranganath Mishra

### **6.7 References/Suggested Readings**

Agarwal, H.O. (1999). Human Rights, Central Law Publications, Allahabad.

Agarwal, R.S. (1974). Human Rights in the Modern World, Chetana Publication, New Delhi.

Bajwa, G.S. (1995). Human Rights in India: Implementation and Violation, Anmol Publications, New Delhi.

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### **6.8 Terminal Questions**

1. Discuss the history of human rights education.

## **Unit 7**

### **Human Rights Education at Different Level of Education: Concept and Significance**

#### **Structure**

- 7.1 Introduction
- 7.2 Learning Objectives
- 7.3 Human Rights Education at Different Level of Education: Concept and Significance  
Self-Check Exercise - 1
- 7.4 Summary
- 7.5 Glossary
- 7.6 Answers to Self Check Exercise
- 7.7 References/Suggested Readings
- 7.8 Terminal Questions

#### **7.1 Introduction**

Dear Learner this unit deals with the important of human rights education at different level of education.

#### **7.2 Learning Objectives**

After completing this unit, you will be able to;

- describe the importance of human rights education at different level of education.

#### **7.3 Human Rights Education at Secondary Level Curriculum**

Human rights need a central place in schooling and need to stay there for many more years to come; this entry and exit cannot be of the ad-hoc kind. Human rights are to be taught effectively and call for participatory teaching and learning which leads to the acquisition of human rights skills. Feelings are to be touched upon in the course of human rights education. In order to inculcate a broad comprehension of human rights as "human existence with dignity", the contents of human rights courses need to incorporate and reflect the concerns for democracy, development and peace. Human rights education at Secondary Level curriculum needs to be constructed, keeping in view the following dimensions of human rights:

- (i) Content should be related to different dimensions of human rights.
- (ii) Constitution of the country.

- (iii) Social, economic and political institutions of the country.
- (iv) Rights of the weaker section of the society i.e. Women, SC's and ST's.
- (v) Basic philosophy of all the international and national declarations related to human rights.
- (vi) Philosophical and culture bases and historical perspective, theories and moments.
- (vii) All human values and ethics.

### **Curriculum for Human Rights Education**

Secondary level curriculum should include the following topics of human rights.

- (a) Text, Establishment, Structure and Status of the Universal Declaration of Human Rights.
- (b) Text, Establishment, Structure and Status of the National Human Rights Commission.
- (c) Historical Development of Human Rights.
- (d) Main Concepts and Fundamental of Human Rights.
- (e) Provisions Related to Fundamental Rights to Education.
- (f) Dimensions of Human Rights---- Discrimination, Violence etc.
- (g) Human Rights and Social Works.
- (h) Human Rights and Prisons.
- (i) Human Rights and Teachers.
- (j) Human Rights and Media.
- (k) Human Rights and Parliament.
- (l) Human Rights and Armed Forces.
- (m) Human Rights and Values.
- (n) Rights of Deprived Sections of the society.
- (o) Role of UNO and its agencies in the promotion of Human Rights.
- (p) Role of NGO's and government in promotion of Human Rights.
- (q) Human Rights and Role of Police

### **Self-Check Exercise - 1**

**Q.1** NGO stands for

### **7.4 Summary**

Dear Learner in this unit we have discussed the importance of human rights education at secondary level curriculum.

## 7.5 Glossary

**Human rights framework:** the evolving and interrelated body of international and regional instruments that define human rights and establish mechanisms to promote and protect them.

**Humanitarian law:** the body of law, mainly based on the Geneva Conventions, that protects certain persons in times of armed conflict, helps victims and limits the methods and means of combat in order to minimize destruction, loss of life and unnecessary human suffering.

**Indigenous peoples:** are defined as much by their relations with the land as by any intrinsic characteristics that they may possess. They have suffered from colonization, are always marginal to their states and they are often tribal. Many indigenous peoples seek recognition of their rights as distinct peoples, including the right to self-determination, and the right to control the development of their societies.

**Inalienable:** refers to rights that belong to every person and cannot be taken from them under any circumstances.

**Indivisible:** refers to the importance of seeing all human rights as part of an undividable and inseparable whole. A person cannot be denied a particular human right on the grounds that it is “less important” than another or “non-essential”.

## 7.6 Answers to Self-Check Exercise

### Self-Check Exercise - 1

**Answer:** NGO stands for Non-Governmental Organization

## 7.7 References/Suggested Readings

Agarwal, H. O. (1999). Human Rights, Central Law Publications, Allahabad.

Agarwal, R. S. (1974). Human Rights in the Modern World, Chetana Publication, New Delhi.

Bajwa, G. S. (1995). Human Rights in India: Implementation and Violation, Anmol Publications, New Delhi.

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## **7.8 Terminal Question**

1. Describe the importance of human rights education at secondary level curriculum.

## **Unit 8**

### **Objectives and Principles of Human Rights Education**

#### **Structure**

- 8.1 Introduction
- 8.2 Learning Objectives
- 8.3 Objectives and Principles of Human Rights Education  
Self-Check Exercise - 1
- 8.4 Summary
- 8.5 Glossary
- 8.6 Answers to Self Check Exercise
- 8.7 References/Suggested Readings
- 8.8 Terminal Questions

#### **8.1 Introduction**

Dear Learner this unit deals with objectives and principles of human rights education.

#### **8.2 Learning Objectives**

After completing this unit, you will be able to;

- explain objectives and principles of human rights education.

#### **8.3 Objectives and Principles of Human Rights Education**

Education is an important index of human development. Along with economic growth and empowerment, it forms the core of every social and human development doctrines. The main aim of Education is all round development of an individual. That is possible when education must form an essential foundation for the realization and development of human rights. The history of education provides ample evidence that education has not been used as an instrument for developing an appreciation for the development of each individual as human being.

#### **Objective**

- To make students aware of the human rights lay down by U.N.O., Vienna declaration and Indian Constitution.

- To find out problems related to human rights in the Indian society and at International level.
- To find out solutions of the problems related to the violation of human rights and to devise ways and means to remove the obstacles.
- To prepare a plan of action for developing awareness of human rights.
- To conduct academic, cultural and co-curricular activities with the help of the students related to human rights.
- To develop consciousness and favourable attitude about the importance of human rights.
- To make the students learn through human rights education to participate in political, social and cultural processes that effect their lives and practice them to make their life meaningful to the individual, society and the nation.

### **Self-Check Exercise - 1**

Q.1 List two objectives of human rights education.

### **8.4 Summary**

Dear Learner in this unit we have discussed the objectives and principles of human rights education.

### **8.5 Glossary**

**HRE:** Acronym for Human Rights Education

**Formal education:** the structured education and training system that runs from pre-primary and primary through secondary school and on to university. As a rule it takes place at general or vocational educational institutions and leads to certification

### **8.6 Answers to Self-Check Exercise**

#### **Self-Check Exercise - 1**

**Answer:** The two objectives of human rights education are:

1. To find out problems related to human rights in the Indian society and at International level.
2. To find out solutions of the problems related to the violation of human rights and to devise ways and means to remove the obstacles.

### **8.7 References/Suggested Readings**

Agarwal, H.O. (1999). Human Rights, Central Law Publications, Allahabad.



- Agarwal, R.S. (1974). Human Rights in the Modern World, Chetana Publication, New Delhi.
- Bajwa, G.S. (1995). Human Rights in India: Implementation and Violation, Anmol Publications, New Delhi.
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- Tarrow Bernstein, Norma (1987). Human Rights and Education. Pergamon Press. USA.
- United Nations (1989). Teaching Human Rights, New York.

## **8.8 Terminal Question**

1. Explain the aims and objectives of human rights education.

## **Unit 9**

### **Famous Indian and International Activists for Protection of Human Rights**

#### **Structure**

- 9.1 Introduction
- 9.2 Learning Objectives
- 9.3 Famous Indian and International Activists for Protection of Human Rights  
Self-Check Exercise 1
- 9.4 Summary
- 9.5 Glossary
- 9.6 Answers to Self Check Exercise
- 9.7 References/Suggested Readings
- 9.8 Terminal Questions

#### **9.1 Introduction**

Dear Learner this unit deals with famous Indian and International activists for protection of human rights.

#### **9.2 Learning Objectives**

After completing this unit, you will be able to;

- list the famous Indian and International activists for protection of human rights.

#### **9.3 Famous Indian and International Activists for Protection of Human Rights**

The detail of people, who fought for, campaigned and promoted human/civil rights and freedom is given below. These names fight for Civil rights - Ending slavery, racial discrimination and promoting the equal treatment of people in society, Women's Rights - People specifically working towards promoting women's rights, Writers– Authors who have promoted respect for human rights through championing the cause of freedom and Humanitarian - People concerned with improving the welfare of others through charitable and humanitarian work.

- Mahatma Gandhi (1869 - 1948): Indian nationalist and politician. Struggled for Indian self-determination and independence. Gandhi inspired millions through his non-violent protests. Gandhi also sought to improve rights of women and outcasts in Indian society.

- Dalai Lama Leader of Tibetans in exile. Has sought to negotiate with Chinese to respect traditions and culture of Tibetans. Believes in non-violent protest.
- Abraham Lincoln (1809 - 1865): President of US during the American civil war. Lincoln made the famous Emancipation Proclamation (1863) – declaring “*that all persons held as slaves*” within the rebellious states “*are, and henceforward shall be free.*” This proclamation was followed by the 13<sup>th</sup> Amendment to the US Constitution (1865) outlawing slavery.
- Nelson Mandela (1918 - 2013) Anti-apartheid leader. Mandela, spent over twenty years in jail for his opposition to the racist apartheid system which excluded blacks from many areas of society. He was elected the first President of democratic South Africa in 1994. – “*I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities.*”
- Martin Luther King (1929 - 1968): Non-violent civil rights leader. Inspired American civil rights movement to achieve greater equality. Helped to organize the 1963 March on Washington, where he gave famous ‘I have a dream’ speech. “*I have a dream that one day this nation will rise up and live out the true meaning of its creed: ‘We hold these truths to be self-evident: that all men are created equal.’*”
- Malala Yousafzai (1997): Pakistani schoolgirl who defied threats of the Taliban to campaign for the right to education. She survived being shot in the head by the Taliban and has become a global advocate for human rights, women’s rights and the right to education. She has sought to emphasize the peaceful nature of Islam and the respect Islam has for education.
- Helen Keller (1880 - 1968): Deaf-blind from early childhood, Keller overcoming her disability to campaign tirelessly on behalf of deaf and blind people.

### Self-Check Exercise - 1

Q.1 Who is Nelson Mandela?

## 9.4 Summary

Dear Learner in this unit we have discussed famous Indian and International activists for protection of human rights.

## 9.5 Glossary

**Universality:** The principle that all human rights are held by all persons in all states and societies in the world.

**Universal Declaration of Human Rights (UDHR):** (Universal Declaration); adopted by the general assembly on December 10, 1948. The primary UN document establishing human rights standards and norms. All member states have agreed to uphold the UDHR. Although the declaration was

intended to be non-binding, through time its various provisions have become so widely recognized that it can now be said to be part of customary international law.

## **9.6 Answers to Self-Check Exercise**

### **Self-Check Exercise - 1**

**Answer:** Nelson Mandela (1918 - 2013) Anti-apartheid leader. Mandela, spent over twenty years in jail for his opposition to the racist apartheid system which excluded blacks from many areas of society. He was elected the first President of democratic South Africa in 1994. – *“I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities.”*

## **9.7 References/Suggested Readings**

Agarwal, H.O. (1999). Human Rights, Central Law Publications, Allahabad.

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Bajwa, G.S. (1995). Human Rights in India: Implementation and Violation, Anmol Publications, New Delhi.

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## **9.8 Terminal Question**

1. Discuss the famous Indian and International activists for protection of human rights.

## **Unit 10**

### **Activities for Human Rights Education at Secondary Stage**

#### **Structure**

- 10.1 Introduction
- 10.2 Learning Objectives
- 10.3 Activities for Human Rights Education at Secondary Stage.  
Self-Check Exercise - 1
- 10.4 Summary
- 10.5 Glossary
- 10.6 Answers to Self Check Exercise
- 10.7 References/Suggested Readings
- 10.8 Terminal Questions

#### **10.1 Introduction**

Dear Learner this unit deals with the activities for the promotion of human rights education at secondary stage.

#### **10.2 Learning Objectives**

After completing this unit, you will be able to;

- list the activities for the promotion of human rights education at secondary stage.

#### **10.3 Activities for Human Rights Education at Secondary Stage**

Secondary school students should be exposed to lecture-cum-discussion sessions to develop an understanding of human rights as per the U.N.O. Charter, Vienna World Conference and Constitution of India. It was kept in the mind that most of the activities should be student oriented. It should be based on the psychological principle that is learning by doing. Some of the activities are mentioned here:

- To organize a Youth Parliament at local and regional level. In these Parliament issues like equal status, rights of women, rights of child, rights of minorities should be raised and discussed.

- To organize visits to various institutions like, Destitute Home, Day Care Centres, Schools with special needs of the learner, Remand Home etc. to find out the functionary of the institution and their problems.
- Group discussions should be organized on freedom from torture and rights of minorities etc.
- Workshops should be organized in the light of human rights for developing awareness of human rights among the students of secondary classes.
- Visit to slum areas of the community.
- Debate, Discussion and Seminar on topic like health and hygiene, family planning, population explosion and unemployment etc.
- Drams and Role Play.
- Wall Magazines:- Material for wall magazines should be collected from newspaper, radio, TV and journals etc.
- Organization of Nature Club.
- Plantation and beautification of the school campus.
- Drawing competition at house level on the topics like environment; human rights.
- Assembly activities like talks, hymns etc.
- Celebration of National Festivals and National and International days.
- Preparation of Scrap Book about the freedom fighter, struggle for independence, various incidence and people related to the struggle for freedom.
- Cultural programmes based on the theme like tolerances, friendly relations among people of different religions and culture.
- To develop sense of franchise, house activities such as election of House Captain, Prefects and in charge should be organized.
- Quiz on right to education etc.
- Posters making competition on the theme like terrorism, drug trafficking and other social evils.
- Collecting documents on human rights.
- Visit to orphanages, old age homes.

### **Self-Check Exercise - 1**

Q. 1 List any four activities for Human Rights Education at Secondary Stage.

### **10.4 Summary**

Dear Learner in this unit we have discussed the activities for the promotion of human rights education at secondary stage.

## **10.5 Glossary**

**Third-generation rights:** Rights, not easily classified as either civil-political or social-economic, which emerged in the second half of the twentieth century. They include the right to a healthy environment, the right to peace, the right to development, and the right to natural resources.

## **10.6 Answers to Self-Check Exercise**

### **Self-Check Exercise - 1**

Answer: The four activities for Human Rights Education at Secondary Stage are as under:

1. To develop sense of franchise, house activities such as election of House Captain, Prefects and in charge should be organized.
2. Posters making competition on the theme like terrorism, drug trafficking and other social evils.
3. Collecting documents on human rights.
4. Visit to orphanages, old age homes.

## **10.7 References/Suggested Readings**

Agarwal, H.O. (1999). Human Rights, Central Law Publications, Allahabad.

Agarwal, R.S. (1974). Human Rights in the Modern World, Chetana Publication, New Delhi.

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Tarrow Bernstein, Norma (1987). Human Rights and Education. Pergamon Press. USA.

United Nations (1989). Teaching Human Rights, New York.

### **10.8 Terminal Question**

1. Discuss the activities for the promotion of human rights education at secondary stage.



## Unit 11

### **Formal Mechanisms for the Enforcement of Human Rights (Role of UN Organs and International Agencies)**

#### **Structure**

- 11.1 Introduction
- 11.2 Learning Objectives
- 11.3 Formal Mechanisms for the Enforcement of Human Rights (Role of UN Organs and International)
  - Self-Check Exercise - 1
- 11.4 Summary
- 11.5 Glossary
- 11.6 Answers to Self-Check Exercise
- 11.7 References/Suggested Readings
- 11.8 Terminal Questions

#### **11.1 Introduction**

Dear learner this unit deals with formal mechanisms for the enforcement of human rights (Role of UN Organs and International Agencies) in the whole world.

#### **11.2 Learning Objectives**

After completing this unit, you will be able to;

- discuss formal mechanisms for the enforcement of human rights (Role of UN Organs and International Agencies) in the whole world

#### **11.3 Formal Mechanisms - For the enforcement of human rights (Role of UN Organs and International Agencies) in the whole world**

For the enforcement of human rights and fundamental freedoms, a number of special bodies have been established in accordance with international conventions dealing with particular aspects of human rights. These bodies devote their full time and attention to monitor the enforcement of the provisions of those conventions. These bodies are the Human Rights Committee, the Group of three, the Committee on Economic Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women, the Committee against Torture and the Committee on the Right of the child. In general these bodies supervise the enforcement of the relevant international human rights conventions by reviewing the information received

from all reliable sources. The following formal mechanisms are adopted at national and international level to enforce the human rights.

- A. UN organs
- B. National and International NGO's
- C. National Level

#### **A. UN Organs**

United Nations has six principal organs and all these organs such as, the General Assembly, the Economic and Social Council, the Security Council, the Trusteeship Council, the International Court of Justice and Secretariat make effective contribution to promote, protect human rights and fundamental freedoms throughout the world. Four specialized agencies, namely, the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization and Food and Agriculture Organization for the United Nations are successfully carrying out their activities in the human rights field. Seven monitoring committees-the Committee on the Elimination of Racial Discrimination, the Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, the Committee against Tortures, the Group of three and the Committee on the Rights of the Child-have been recently established. Their functions are to monitor and supervise the implementations of concerned multilateral treaties which are meant to ensure the enjoyment of human rights and fundamental freedoms by everyone without distinction.

#### **B. International Organizations**

There are about more than 200 NGO's working around in India. They are working around the globe every hour of day to check the injustice upon women, children and poor. Modes of Their Work:-

- a) Involving people from all walks of life
- b) Developing indicators for judging the standards and status of human rights
- c) Acting as an effective instrument of perspective diplomacy
- d) Monitoring implementations of various schemes of commissions.

At the international level the status of Human Rights is watching by many NGO. Amnesty international is one such organization.

**1. Amnesty International (1977):** Dedicated to publicizing violation of human rights specially freedom of speech, religion and rights of public decent. It also works for the release of political prisoners and when necessary for the relief of their family.

For its commendable services in the fields of Human Rights, Amnesty International was awarded the Noble prize for peace in 1977.

#### **Self-Check Exercise - 1**

**Q.1** List United Nations principal organs.

#### **11.4 Summary**

Dear learner in this unit we have discussed the formal mechanisms for the enforcement of human rights in the whole world.

#### **11.5 Glossary**

**Declaration:** a document stating agreed upon principles and standards but which is not legally binding. UN conferences, like the 1993 UN Conference on Human Rights in Vienna and the 1995 World Conference for Women in Beijing, usually produce two sets of declarations: one written by government representatives and one by nongovernmental organizations (NGOs). The UN General Assembly often issues influential but legally non-binding declarations.

**Declaration on the Rights of the Child:** adopted by the UN General Assembly in 1959, this non-binding instrument sets forth ten general principles, which later formed the basis for the Convention on the Rights of the Child (CRC), which was adopted in 1989.

#### **11.6 Answers to Self-Check Exercise**

##### **Self-Check Exercise -1**

**Answer:** The six United Nations principal organs are - General Assembly, Economic and Social Council, Security Council, Trusteeship Council, International Court of Justice and Secretariat.

#### **11.7 References/Suggested Readings**

Agarwal, H.O. (1983). Implementation of Human Rights Covenants with Special Reference to India, Kitab Mahal, Allahabad.

Agarwal, R.S. (1974). Human Rights in the Modern World, Chetana Publication, New Delhi.

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Tarrow Bernstein, Norma (1987). Human Rights and Education. Pergamon Press. USA.

United Nations (1989). Teaching Human Rights, New York.

### **11.8 Terminal Question**

1. Describe the role of formal mechanisms in protection and promotion of human rights.

## **Unit 12**

### **Formal Mechanisms for the Enforcement of Human Rights (Role of National and State Agencies, NGOs)**

#### **Structure**

- 12.1 Introduction
- 12.2 Learning Objectives
- 12.3 Formal Mechanisms for the Enforcement of Human Rights (Role of National and State Agencies, NGOs)
  - Self-Check Exercise - 1
- 12.4 Summary
- 12.5 Glossary
- 12.6 Answers to Self-Check Exercise
- 12.7 References/Suggested Readings
- 12.8 Terminal Questions

#### **12.1 Introduction**

Dear learner this unit deals with Formal Mechanisms for the Enforcement of Human Rights (Role of National and State Agencies, NGOs) at national and state level.

#### **12.2 Learning Objectives**

After completing this unit, you will be able to;

- discuss formal mechanisms for the Enforcement of Human Rights (Role of National and State Agencies, NGOs) at national and state level

#### **12.3 Formal Mechanisms for the Enforcement of Human Rights (Role of National and State Agencies, NGOs)**

Following formal mechanisms are adopted at national and state level to enforce the human rights.

- National
- State Level
- NGO's

## National Organizations

There are about more than 200 NGO's working around in India. They are working around the globe every hour of day to check the injustice upon women, children and poor. Modes of Their Work:-

- e) Involving people from all walks of life
- f) Developing indicators for judging the standards and status of human rights
- g) Acting as an effective instrument of perspective diplomacy
- h) Monitoring implementations of various schemes of commissions.

At the international level the status of Human Rights is watching by many NGO. Amnesty international is one such organization.

1. **Subhash Movement:** It is a major movement for the betterment and welfare of Dalits.
2. **CRY:** It is voluntary organization committed to the upliftment of millions of children who have been deprived of their childhoods due to various reasons.
3. **CACL:** This campaign against child labour is a joint initiative for youth for voluntary action (Yuva).
4. **Tere Des Hommes:** The campaign is supported by organization and is actively working for progressive eradication of child labour.
5. **Saheli and Chetna:** These organizations work for the protection of women's rights. They provide free legal aid to women to fight for their rights against gender bias and discrimination.
6. **Butterflies:** It is an NGO with a programme for street and working children. Its activity includes non-formal education, saving scheme for children, vocational training, holding BAL SABHA and creating awareness for children's rights.
7. Human Rights Watch
8. International Federation for Human Rights
9. People's Action for People in Need
10. Society for Rural Development
11. People's Union of Civil Liberties
12. Centre of Concern of Child
13. Mahila Uthan Samiti
14. Human Rights Wing
15. Kosi Seva Sadan (KSS)
16. Kosi Lok Manch (KLM)
17. Dalit Voice

## **National Level**

**The National Human Rights Commission (NHRC):** The Indian Parliament has enacted the Protection of Human Rights Act, 1993 for the Constitution of a National Human Commission, State Human Rights Commissions in the States and Human Rights Courts for better protection of human rights and for matters connected there with or incidental there to. Thus, it has a twin objective to fulfill, namely, establishment of institutional structure, both at Centre and State Levels, and to create enforcement machinery in terms of human rights courts for better protection of human rights.

**State Human Rights Commission (SHRC):** The State level Commissions would accord quicker access to a decentralized complaints-redressal mechanism and would also help aggrieved parties save expenses which would otherwise be incurred from having to approach a single authority, located in Delhi, in a country as vast as India. The State Human Rights Commissions in India came into existence in October 1997. According to Section 21(1) of the Protection of Human Rights Act, 1993, a State Government may constitute a body to be known as the...(the name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned, to State Commission under Chapter V of the Act. The wording of this provision, especially the word 'may' indicate that it is not compulsory for the States to establish State Human Rights Commission. Thus it depends upon the discretion of the State. While under Section 3 of the Act, it is compulsory and mandatory for the Central Government to constitute a body to be known the National Human Rights Commission of Section 3 uses the words "shall constitute", it is simply optional under Section 21(1) for the State to constitute a State Human Rights Commission. Only a few states, namely West Bengal, Assam, Madhya Pradesh, Tamil Nadu and Himachal Pradesh have so far established State Human Rights Commission by the end of March, 1997. Subsequently the Government of Punjab State has established such a Commission but Uttar Pradesh has simply notified the Constitution of a State Commission. Later on the example of above-mentioned States has been followed by the Government of Jammu and Kashmir. In its annual report of 1995-96, the National Human Rights Commission (NHRC) has recommended that State Commission be established at an early date in the remaining States also. The commission has, therefore, recommended that it should be mandatory for every State to establish State Human Rights Commission.

## **Human Rights Courts in Districts**

The protection of human rights Act, 1993 provides for the constitution of Human Rights Courts by the States for providing speedy trial or offences arising out of violation of human rights. Sections 30 of the Protection of Human Rights Act, 1993 provides for a Human Rights Courts in each district. It provides that for the purpose of providing speedy trial of offences arising out of violation of human rights the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify in each district a Court of Session to be a Human Rights Court to try the said offences. But no such Court shall be specified if (a) Court of Session is already specified as a special Court; or (b) a special court is already constituted for such offences under any other law for the time being in force.

The Act also makes provision for a special Public Prosecutor for every Human Rights Court. Section 31 of the Act provide that for every Human Rights Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a special Public Prosecutor for the purpose of conducting cases in that Court.

While Section 31 is mandatory, Section 30 is optional. The provisions contained in Section 30 is every weak, for it used the word 'may' that is to say, it is not mandatory for the State Government to establish Human Rights Courts in each District. That is why, only a few States namely Andhra Pradesh, Assam, Sikkim and Tamil Nadu have notified such courts. Section 30, which provides for establishment of District Human Rights Courts, does not lay down the jurisdiction of such courts. It also does not lay down as to what procedure shall be followed by such courts. This ambiguity will create problems when the cases for alleged violation of human rights are actually conducted in such Court.

**Human Rights Cell:** -Human rights cell has been established in the states of Uttar Pradesh, Andhra Pradesh and Kerala, and in the Union Territories of Daman and Diu and Dadar and Nagar Haveli and the National Capital Territory of Delhi for the optimum realization of human rights.

**District Level Committees:-** In addition to the provisions contained in the statute, the district-level committees are to be created. The district level committees will be headed by the District and Session Judge, and will comprise, in addition, the Chief Judicial District Magistrate, the Superintendent of Police and the Revenue Divisional Officer as members. Though the committees are purely official in nature, they can serve a most positive purpose. Thus, the commission has accordingly recommended the setting up of such committees in various States.

**Regional Office:-** As the commission is keen to follow the human rights situation in all regions of the country closely, to act preventively, to redress grievances speedily, and to promote a culture of human rights throughout India, it has been examining ways and means in which it can best decentralize its own administrative machinery. It has thus taken a decision in principle to establish regional offices that could serve the above-mentioned purposes, strengthen liaison with the State Government/Union Territories and also help establishment of the Circuit Benches of the Commission which could result in the speedier disposal of the cases filed before it.

## **Constitutional Provisions on Human Rights**

### **Preamble**

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a *SOVEREIGN SOCIALIST SECULAR DEMOCRATICREPUBLIC* and to secure to all its citizens:

JUSTICE, social economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all



FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUTENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION."

### **Part III (Articles 12-35)**

## **FUNDAMENTAL RIGHTS**

### **General**

**12. Definition:-** In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

### **13. Laws inconsistent with or in derogation of the fundamental rights-**

1. All laws in force in the territory of India immediately, before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.
2. The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.
3. In this article, unless the context otherwise requires,-
  - (a) "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;
  - (b) "laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed....

### **Right to Equality**

**14. Equality before law-** The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

### **15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth-**

1. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them.
2. No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-
  - (a) access to shops, public restaurants, hotels and places of public entertainment; or

- (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.
- 3. Nothing in this article shall prevent the State from making any special provision for women and children.
- 4. Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

**16. Equality of opportunity in matters of public employment-**

- 1. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
- 2. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State.
- 3. Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.
- 4. Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.
- 5. Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

**17. Abolition of Untouchability-** "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

**18. Abolition of titles-**

- 1. No title, not being a military or academic distinction, shall be conferred by the State.
- 2. No citizen of India shall accept any title from any foreign State.
- 3. No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

4. No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

### **Self-Check Exercise - 1**

Q.1 What do you understand by NHRC?

## **12.4 Summary**

Dear learner in this unit we have discussed the role of formal mechanisms and Universal Declaration of Human Rights, 1948 in promotion of human rights. In this unit Constitutional Provisions for Women, SCs, STs and Minorities and role of media in promotion of human rights are also discussed in detail.

## **12.5 Glossary**

**Amendment(s)** - A device to alter a motion moved or question under discussion in the Legislature; includes omission, substitution, addition and insertion of certain words, figures or marks to the clause of a bill, a resolution or a motion or to an amendment made thereof.

**Act (of Parliament)** - In India, a Bill passed by the two Houses of Parliament and assented to by the President.

**Directive Principles of State Policy** - Constitutional directions and principles fundamental in the governance of the country.

**Election Commission** - A constitutional body in India created for the purpose of holding elections to Parliament, State Legislatures and offices of President and Vice-President.

## **12.6 Answers to Self-Check Exercise**

### **Self-Check Exercise - 1**

**Answer:** The National Human Rights Commission (NHRC): The Indian Parliament has enacted the Protection of Human Rights Act, 1993 for the Constitution of a National Human Commission, State Human Rights Commissions in the States and Human Rights Courts for better protection of human rights and for matters connected there with or incidental there to. Thus, it has a twin objective to fulfill, namely, establishment of institutional structure, both at Centre and State Levels, and to create enforcement machinery in terms of human rights courts for better protection of human rights.

## **12.7 References/Suggested Readings**

Agarwal, H.O. (1983). Implementation of Human Rights Covenants with Special Reference to India, KitabMahal, Allahabad.

- Agarwal, R.S. (1974). Human Rights in the Modern World, Chetana Publication, New Delhi.
- Bajwa, G.S. (1995). Human Rights in India: Implementation and Violation, Anmol Publications, New Delhi.
- Basu, D.D. (1994). Human Rights in Constitutional Law, Prentice hall of India Pvt. Ltd, New Delhi.
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- Bernard Mayo (1967). What are Human Rights, Political Theory and the Right of Man, Ed. By Raphael, D.D. McMillan, PP. 68.
- Sen, A.N. (2002). Human Rights, Sri Sai Law Publications, Faridabad, Haryana.
- Singh, Nagendra (1981). Human Rights and the Future of Mankind, Vanity Books, Delhi.
- Talesra, Hemlata, Pancholy, Nalini and Nagda, Mangilal (2000). Human Rights Education: A Global Perspective, Regency Publications, New Delhi.
- Tarrow Bernstein, Norma (1987). Human Rights and Education. Pergamon Press. USA.
- United Nations (1989). Teaching Human Rights, New York.

## **12.8 Terminal Questions**

2. Describe the role of formal mechanisms in protection and promotion of human rights.
3. Explain the role of universal declaration of human rights, 1948 in promotion of human rights.
4. Discuss constitutional provisions for human rights: women, SCs, STs and minorities discuss the role of media in promotion of human rights.

## **Unit 13**

### **Universal Declaration of Human Rights, 1948**

#### **Structure**

- 13.1 Introduction
- 13.2 Learning Objectives
- 13.3 Universal Declaration of Human Rights, 1948
  - Self-Check Exercise - 1
- 13.4 Summary
- 13.5 Glossary
- 13.6 Answers to Self-Check Exercise
- 13.7 References/Suggested Readings
- 13.8 Terminal Questions

#### **13.1 Introduction**

Dear learner this unit deals with Universal Declaration of Human Rights, 1948 in promotion of human rights.

#### **13.2 Learning Objectives**

After completing this unit, you will be able to;

- explain the role of Universal Declaration of Human Rights, 1948 in promotion of human rights.

#### **13.3 Universal Declaration of Human Rights, 1948**

(Adopted and Proclaimed by General Assembly Resolution

21 7A (III) of 10 December 1948)

##### **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 cooperation with the United Nations, in promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of those rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore.

### **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 the 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 to 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. 1. 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 defense.
2. 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. 1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own, and to return to his country.
- Article 14. 1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. 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. 1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.
- Article 16. 1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.
- Article 17. 1. Everyone has the right to own property alone as well as association with others.
2. 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. 1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.
- Article 21. 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will 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 cooperation 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. 1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.



3. 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.

4. 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. 1. 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, medical care, necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihoods in circumstances beyond his control.

2. 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. 1. 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.

2. Education shall be directed to the full development of 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.

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

Article 27.1. Everyone has the right to participate freely in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interest 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. 1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. 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.

3. These rights and freedoms may in no case be exercise 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.

### **Self-Check Exercise - 1**

Q. 1 International Human Rights Day Celebrated on which date every year.

## **13.4 Summary**

Dear learner in this unit we have discussed Universal Declaration of Human Rights, 1948 in promotion of human rights.

## **13.5 Glossary**

**Discrimination Against Women:** Defined in the WOMEN'S CONVENTION as "Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field" (Article 1).

**Human Development Index (HDI):** Measures development of States according to a variety of factors including health, literacy and standard of living indicators.

**Jurisdiction:** The authority of courts or court-like bodies to hear and decide CLAIMS; can refer to the courts ability to hear particular subjects and/or to review cases brought by certain types of CLAIMANTS; jurisdiction can also refer to a geographic area of authority.

## **13.6 Answers to Self-Check Exercise**

### **Self-Check Exercise - 1**

Answer: International Human Rights Day Celebrated on 10<sup>th</sup> December.

## **13.7 References/Suggested Readings**

Agarwal, H.O. (1983). Implementation of Human Rights Covenants with Special Reference to India, KitabMahal, Allahabad.

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United Nations (1989). Teaching Human Rights, New York.

### **13.8 Terminal Question**

1. Explain the role of universal declaration of human rights, 1948 in promotion of human rights.

## Unit 14

### Constitutional Provisions for Human Rights: Women, SCs, STs and Minorities

#### Structure

- 14.1 Introduction
- 14.2 Learning Objectives
- 14.3 Constitutional Provisions for Human Rights: Women, SCs, STs and Minorities  
Self-Check Exercise - 1
- 14.4 Summary
- 14.5 Glossary
- 14.6 Answers to Self-Check Exercise
- 14.7 References/Suggested Readings
- 14.8 Terminal Questions

#### 14.1 Introduction

Dear learner this unit deals with the Constitutional Provisions for Women, SCs, STs and Minorities for promotion of human rights.

#### 14.2 Learning Objectives

After completing this unit, you will be able to;

- discuss Constitutional Provisions for Human Rights: Women, SCs, STs and Minorities

#### 14.3 Constitutional Provisions on Human Rights

##### Preamble

“WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a *SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC* and to secure to all its citizens:

JUSTICE, social economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUTENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION."

### **Part III (Articles 12-35)**

## **FUNDAMENTAL RIGHTS**

### **General**

**12. Definition:-** In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

### **13. Laws inconsistent with or in derogation of the fundamental rights-**

4. All laws in force in the territory of India immediately, before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.
5. The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.
6. In this article, unless the context otherwise requires,-
  - (a) "law" includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;
  - (b) "laws in force" includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed....

### **Right to Equality**

**14. Equality before law-** The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

### **15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth-**

5. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them.
6. No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-
  - (a) access to shops, public restaurants, hotels and places of public entertainment; or

- (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.
- 7. Nothing in this article shall prevent the State from making any special provision for women and children.
- 8. Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

**16. Equality of opportunity in matters of public employment-**

- 6. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
- 7. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State.
- 8. Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.
- 9. Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.
- 10. Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

**17. Abolition of Untouchability-** "Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

**18. Abolition of titles-**

- 14 No title, not being a military or academic distinction, shall be conferred by the State.
- 15 No citizen of India shall accept any title from any foreign State.
- 16 No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

- 17 No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

## **Right to Freedom**

### **19. Protection of certain rights regarding freedom of speech, etc.-**

1. All citizens shall have the right-
  - a. to freedom of speech and expression;
  - b. to assemble peaceably and without arms;
  - c. to form associations or unions;
  - d. to move freely throughout the territory of India;
  - e. to reside and settle in any part of the territory of India; and
  - f. to practise any profession, or to carry on any occupation, trade or business.
2. Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests 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 offence.
3. Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing in the interest of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.
4. Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes or prevent the state from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.
5. Nothing in sub-clause (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the state from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribes
  - b. Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes or prevent the state from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to or prevent the State from making law relating to-

- (i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
- (ii) the carrying on by the State, or by a corporation owned or controlled by the State of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

## **20. Protection in respect of conviction for offences**

1. No person shall be convicted of any except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.
2. No person shall be prosecuted and punished for the same offence more than once.
3. No person accused of any offence shall be compelled to be a witness against himself.

**21. Protection of life and personal liberty-** No person shall be deprived of his life or personal liberty except, according to procedure established by law.

## **22. Protection against arrest and detention in certain cases-**

1. No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.
2. Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding, the time necessary for the journey from the place of arrest to court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.
3. Nothing in clauses (1) and (2) shall apply
  - a. to any person who for the time being is an enemy alien; or
  - b. to any person who is arrested or detained under any law providing for preventive detention.
4. No law providing for preventive detention shall authorize the detention of a person for a longer period than three months unless-
  - a. an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorize the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or



- b. such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).
- 5. When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.
- 6. Nothing in clause (5) shall require the authority making any such order s is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.
- 7. Parliament may by law prescribe
  - a. the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);
  - b. the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and
  - c. the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

## **Right against Exploitation**

### **23. Prohibition of traffic in human beings and forced labour-**

- 1. 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.
- 2. Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

**24. Prohibition of employment of children in factories, etc.-** No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

## **Right to Freedom of Religion**

### **25. Freedom of conscience and free profession, practice and propagation of religion-**

- 1. Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
- 2. Nothing in this article shall affect the operation of any existing law or prevent the State from making any law-

- a. regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
- b. providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

*Explanation I* - The wearing and carrying of *Kirpans* shall be deemed to be included in the profession of the Sikh religion.

*Explanation II*- In sub-clause (2), the reference to Hindus shall be constructed as including a reference to persons professing the Sikh, Jain or Buddhist religion, and the reference to Hindu religious institutions shall be constructed accordingly.

**26. Freedom to manage religious affairs-** Subject to public order, morality and health, every religious denomination or any section thereof shall have right-

- a. to establish and maintain institutions for religious and charitable purpose;
- b. to manage its own affairs in matters of religion;
- c. to own and acquire movable and immovable property; and
- d. to administer such property in accordance with law;

**27. Freedom as to payment of taxes for promotion of any particular religion-** No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

**28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions-**

1. No religious instruction shall be provided in any educational institution wholly maintained out of State funds.
2. Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.
3. No person attending any educational institution recognized by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or, to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

## **Cultural and Educational Rights**

**29. Protection of interests of minorities-**

1. Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

2. No citizen shall be denied admission into any educational institution maintained by the State or, receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

### **30. Right of minorities to establish and administer educational institutions-**

1. All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.
- 1.A In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.
2. The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

**31C. Saving of laws giving effect to certain directive principles-** Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing all or any of the principles laid down in Part IV shall be deemed to be void on the ground, that it is inconsistent with or takes away or abridges any of the rights conferred by article 14 or article 19; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy....

### **Right to Constitutional Remedies**

### **32. Remedies for enforcement of rights conferred by this Part-**

1. The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.
2. The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *quo warrantor* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.
3. Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).
4. The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

**33. Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.-** Parliament may, by law, determine to what extent any of the rights conferred by this part shall, in their application to,-

- a. the members of the Armed Forces; or

- b. the members of the Forces charged with the maintenance of public order; or
- c. persons employed in any bureau or other organization established by the State for purposes of intelligence or, counter intelligence; or
- d. persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organization referred to in clauses (a) to (c), be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

**34. Restriction on rights conferred by this part while martial law is in force in any area-** Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

#### **Part IV (Articles 36-51)**

##### **DIRECTIVE PRINCIPLES OF STATE POLICY**

**36. Definition-** In this Part, unless the context otherwise requires, "the State" has the same meaning as in Part III.

**37. Application of the principles contained in this Part-** The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

**38. State to secure a social order for the promotion of welfare of the people-**

- 1. The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.
- 2. The State shall, in particular, strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

**39. Certain principles of policy to be followed by the State-** The State shall, in particular, direct its policy towards securing-

- a. that the citizen, men and women equally, have the right to an adequate means of livelihood;
- b. that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good;

- c. that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- d. that there is equal pay for equal work for both men and women;
- e. that the health and strength of workers, men and women, and 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;
- f. that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

**39A. Equal Justice and Free Legal Aid-** The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

**40. Organization of Village Panchayats-** The State shall take steps to organize village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

**41. Right to work, to education and to public assistance in certain cases-** The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

**42. Provision for just humane conditions of work and maternity relief-** The State shall make provision for securing just and humane conditions of work and for maternity relief.

**43. Living wage, etc., for workers-** The State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or cooperative basis in rural areas.

**43A. Participation of workers in management of industries-** The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organization engaged in any industry.

**44. Uniform civil code for the citizens-** The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

**45. Provision for free and compulsory education for children-** The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory, education for all children until they complete the age of fourteen years.

**46. Promotion of educational and economic interests of Scheduled Castes. Schedule Tribes and other weaker sections-** The State shall promote with special care the educational

and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Schedule Tribes, and shall protect them from social injustice and all forms of exploitation.

**47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health-** The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

**48. Organization of agriculture and animal husbandry-** The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

**48A. Protection and improvement of environment and safeguarding of forests and wild life-** The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

**49. Protection of monuments and places and objects of national importance-** It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

**50. Separation of judiciary from executive-** The State shall take steps to separate the judiciary from the executive in the public services of the State.

**51. Promotion of international peace and security-**

The State shall endeavour to -

- a. promote international peace and security;
- b. maintain just and honourable relations between nations;
- c. foster respect for international law and treaty obligations in the dealings of organized people with one another; and
- d. encourage settlement of international disputes by arbitration.

## **Part IV A**

### **FUNDAMENTAL DUTIES**

**51A. Fundamental duties-** It shall be the duty of every citizen of India-

- a. to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- b. to cherish and follow the noble ideals which inspired our national struggle for freedom;

- c. to uphold and protect the sovereignty, unity and integrity of India;
- d. to defend the country and render national service when called upon to do so;
- e. to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- f. to value and preserve the rich heritage of our composite culture;
- g. to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- h. to develop the scientific temper, humanism and the spirit of inquiry and reform;
- i. to safeguard public property and to abjure violence;
- j. to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.

### **SOME OTHER PROVISIONS**

#### **Article 226. Power of High Courts to issue certain writs-**

1. Notwithstanding anything in articles 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority , including in appropriate cases, any Government, within those territories directions, order or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warrant and certiorari, or any of them, for the enforcement of any of the rights conferred by Part 111 and for any other purpose
2. The power conferred by the clause (1) to issue directions, order or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.
3. Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceeding relating to a petition under clause(1), without -
  - a. furnishing to such party copies of such petition and all documents in support of the pleas for such interim order; and
  - b. giving such party an opportunity of being heard, makes an application to the high court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party , the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on

which the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

4. The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.

**Article 300A. Persons not to be deprived of property save by authority of law-** No person shall be deprived of his property save by authority of law.

**Article 325. No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex-** There shall be one general electoral roll for every territorial constituency for election to either House of Parliament or to the House or either House of the Legislature of a State and no person shall be ineligible for inclusion in any such roll or claim to be included in any special electoral roll for any such constituency on grounds only of religion, race, caste, sex or any of them.

**Article 326. Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage-** The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than eighteen years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election.

**Some other important Statutes are the following:**

- The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.
- Medical Termination of pregnancy Act, 1971.
- The Transplantation of Human Organs Act, 1994.
- Orphanages and Other Charitable Home (Supervision and Control) Act, 1960.
- The SAARC Convention (Suppression of Terrorism) Act, 1993.
- Environmental Protection Act, 1986.
- Beedi and Cigar Workers (Conditions of Employment) Act, 1966.
- Beedi Worker Welfare Fund Act, 1976.
- Trade Unions Act, 1926.
- Industrial Disputes Act, 1947.

### **Self-Check Exercise - 1**

Q.1 What are the provisions highlighted in Article 20 of Indian Constitution?

### **14.4 Summary**



Dear learner in this unit we have discussed Constitutional Provisions for Women, SCs, STs and Minorities in promotion of human rights.

### 14.5 Glossary

**Ethnic group:** An ethnic group or ethnic community can be defined as a large or small group of people, in either traditional or advanced societies, who are united by a common inherited culture (including language, music, food, dress, and customs and practices), racial similarity, common religion, and belief in common history and ancestry and who exhibit a strong physiological sentiment of belonging to the group.

**Gender:** Traditionally, gender has been used primarily to refer to categories of "masculine," "feminine," and "neuter," but in recent years the word has become well established in its use to refer to sex-based categories, as in phrases such as gender gap and the politics of gender. This usage is supported by the practice of many anthropologists, who reserve sex for reference to biological categories, while using gender to refer to social or cultural categories.

### 14.6 Answers to Self-Check Exercise

#### Self-Check Exercise - 1

Answer: The Article 20 of Indian Constitution deals with the Protection in respect of conviction for offences:

1. No person shall be convicted of any except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.
2. No person shall be prosecuted and punished for the same offence more than once.
3. No person accused of any offence shall be compelled to be a witness against himself.

### 14.7 References/Suggested Readings

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#### **14.8 Terminal Questions**

1. Discuss constitutional provisions for human rights: women, SCs, STs and minorities discuss the role of media in promotion of human rights.

## **Unit 15**

### **Role of Press and Media for Promotion of Human Rights Education**

#### **Structure**

- 15.1 Introduction
- 15.2 Learning Objectives
- 15.3 Role of Press and Media for Promotion of Human Rights Education
  - Self-Check Exercise - 1
- 15.4 Summary
- 15.5 Glossary
- 15.6 Answers to Self-Check Exercise
- 15.7 References/Suggested Readings
- 15.8 Terminal Questions

#### **15.1 Introduction**

Dear learner this unit deals with role of media in promotion of human rights.

#### **15.2 Learning Objectives**

After completing this unit, you will be able to;

- discuss the role of media in promotion of human rights.

#### **15.3 Media and Human Rights**

The National Policy on Education 1986 and modified policy 1992 has observed, "The media has profound influence on the minds of children. The mass media make the constraints of time, and distance manageable. Modern educational Technology must reach out to the most distant areas and the most deprived section of beneficiaries simultaneously with the areas of comparative affluence and ready availability."

Mass media serve some important functions. They are helpful in teaching large number of people. They are helpful in the spread of human rights education. They are useful in making instruction more effective and meaningful.

The media today is faced with the daunting task of informing people, educating them and creating awareness about human rights, and specifying the children's right. It has now become clear that information and communication are central for any action taken nationally or internationally. 'Communication and, access to information should be a right in itself. The right of the people to be informed and to express themselves freely is the need of today. It is a pity that final declaration of the world conference includes one paragraph on this paragraph 39 reads:

“Underlining the importance of objective, responsible and impartial information about human rights and humanitarian issues, the world conference on human rights encourages the increased involvement of the media for whom freedom and protection should be guaranteed within the framework of national law.”

It is peculiar that the conference stressed on the 'information role of the media, and ignored its role as an educator and communicator.'

In today's information centric world, the media in India has to play more dominant role than it is doing today. It has to highlight the rights of the child and educate people on child abuse.

Here again is a dichotomous situation, should one bring to fore the negative social aspect of child abuse, sexual exploitation, torture and deprivation from education or just project a positive image of do-gooders and the scant positive steps taken. The media is embroiled in the eternal question of should it or should it not project a correct picture.

It is well known that the mass media has a great impact on its audience. Till now this advantage of the media has not been explored in favour of educating people. The track record of newspaper, radio and television has been dismal. Apart from sporadic reporting of cases of child abuse, not much has been done.

A revolution in communication, the radio, the TV, international satellite network or even Internet has meant that the national and International Communities can no longer claim ignorance on the abuse of the rights of the child. Every day, the global community sees, children dead due to war, drought or sheer poverty. The toll taken by dreadful diseases of children go unnoticed. The occupational hazard of the media is that they are attracted only to atrocities and sufferings, which are of spectacular nature. The day-to-day mundane issues hence go unnoticed.

This critical appraisal of the media is not aimed to show where we are increasing, but being home to the emergency of the social crises faced by children of India and the third world.

Media can be of help by adopting following programme for building awareness on the rights of the child:

- (1) A systematic publication of article in newspapers stories for children on child exploitation, exhibitions, etc., should be written.
- (2) Long and short programmes on radio and television about the rights of the child and its violation.
- (3) Sponsoring of short snippets on national and international network.
- (4) Use of SAVE programmes to create awareness within the SAARC region.
- (5) NGO's with the help of films and video cassettes should educate the people at village level.
- (6) A concerted effort through the mass media should be taken up to propagate need for child education, their rights and steps taken to protect the same.

The press and media highlight the need for the protection of human rights. They publish news regarding violation of human rights. They draw the attention of the government to various issues.

The press includes articles on the various dimensions of human rights. It creates awareness among different sections of population regarding their rights.

### **Self-Check Exercise - 1**

Q.1 What is role of media according to NEP 1986.

### **15.4 Summary**

Dear learner in this unit we have discussed role of media in promotion of human rights are also discussed in detail.

### **15.5 Glossary**

**Activism:** The practice of taking action to promote social or political change, often through protests, demonstrations, or other forms of direct action.

**Agenda Setting Theory:** The process by which the media influence the public's perceptions of what is important.

**Audience Analysis:** The process of understanding the characteristics and needs of the audience.

### **15.6 Answers to Self-Check Exercise**

#### **Self-Check Exercise – 1**

**Answer:** The National Policy on Education 1986 and modified policy 1992 has observed, "The media has profound influence on the minds of children. The mass media make the constraints of time, and distance manageable. Modern educational Technology must reach out to the most distant areas and the most deprived section of beneficiaries simultaneously with the areas of comparative affluence and ready availability."

### **15.7 References/Suggested Readings**

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### **15.8 Terminal Questions**

1. Discuss the role of media in promotion of human rights.

## Unit - 16

### **Government Programmes related to Child Welfare and Development - ICDS and ICPS; Juvenile Justice (Care and Protection) Act, 2006**

#### **Structure**

- 16.1 Introduction
- 16.2 Learning Objectives
- 16.3 Government Programmes related to Child Welfare and Development - ICDS and ICPS; Juvenile Justice (Care and Protection) Act, 2006
  - Self-Check Exercise - 1
- 16.4 Summary
- 16.5 Glossary
- 16.6 Answers to Self-Check Exercise
- 16.7 References/Suggested Readings
- 16.8 Terminal Questions

#### **16.1 Introduction**

Dear learner this unit deals with the Government Programmes related to Child Welfare and Development - ICDS and ICPS; Juvenile Justice (Care and Protection) Act, 2006.

#### **16.2 Learning Objectives**

After completing this unit, you will be able to;

- explain various Government Programmes related to Child Welfare and Development – ICDS and ICPS; Juvenile Justice (Care and Protection) Act, 2006

#### **16.3 Government Programmes related to Child Welfare and Development - ICDS and ICPS; Juvenile Justice (Care and Protection) Act, 2006**

All individuals are entitled to certain basic rights in every part of the world. Irrespective of the circumstances, no one is morally or ethically empowered to take away these basic rights from ordinary citizens. The rights are of different types like political and civil liberty rights. The most fundamental right available to a human being is of right to life and physical safety. Human rights are the expression of the need for human dignity, fairness, acceptance, tolerance and mutual respect. The idea of human rights conveys the scope of justice and morality. Though, many international organizations and country heads emphasize the need of human rights, its violation has always been a common phenomenon in different parts of the world. We are not strangers to violation of human rights in certain countries. Incidents of inhuman acts keep occurring throughout the world. People are being deprived of basic human necessities. Despite the presence of international watchdogs, basic human rights have been taken away in the

name of communal discrimination, fundamentalism and racial discrimination. The phenomenon is more rampant in third world countries. Women and children have suffered the most because of these violations. Forms of human rights violation include:

- child trafficking
- dowry
- sexual harassment
- early marriage
- child labour
- polygamy
- genocide
- slavery
- medical experimentation and
- war crimes and rape

**Child Abuse:** Child abuse is any act, or failure to act, by a parent or other caregiver that results in actual or potential harm to a child. It includes all forms of physical abuse, sexual abuse, psychological abuse, or neglect, and can occur in a child's home, or in the organizations, schools or communities the child interacts with. In Western countries, preventing child abuse is considered a high priority, and detailed laws and policies exist to address this issue. Different jurisdictions have developed their own definitions of what constitutes child abuse for the purposes of removing a child from his/her family and/or prosecuting a criminal charge. The World Health Organization distinguishes four types of child maltreatment: ***physical abuse; sexual abuse; emotional and psychological abuse and neglect.***

**Physical abuse:** Among professionals and the general public, people often do not agree on what behaviors constitute physical abuse of a child. Physical abuse often does not occur in isolation, but as part of a constellation of behaviors including authoritarian control, anxiety-provoking behavior, and a lack of parental warmth. The WHO defines physical abuse as: intentional use of physical forces against the child that results in - or has a high likelihood of resulting in - harm for the child's health, survival, development or dignity. This includes hitting, beating, kicking, shaking, biting, strangling, scalding, burning, poisoning and suffocating. Much physical violence against children in the home is inflicted with the object of punishing.

**Sexual abuse:** Child sexual abuse (CSA) is a form of child abuse in which an adult or older adolescent abuses a child for sexual stimulation. Sexual abuse refers to the participation of a child in a sexual act aimed toward the physical gratification or the financial profit of the person committing the act. Forms of CSA include asking or pressuring a child to engage in sexual activities (regardless of the outcome), indecent exposure of the genitals to a child, displaying pornography to a child, actual sexual contact with a child, physical contact with the child's genitals, viewing of the child's genitalia without physical contact, or using a child to produce child pornography. Selling the sexual services of children may be viewed and treated as child abuse with services offered to the child rather than simple custody. Sexual victimization at a



young age has been correlated with several risk factors for contracting HIV including decreased knowledge of sexual topics, increased prevalence of HIV, and engagement in risky sexual practices.

**Psychological abuse:** It has been defined as the production of psychological and social defects in the growth of a child as a result of behavior such as loud yelling, coarse and rude attitude, inattention, harsh criticism, and abuse of the child's personality. Other examples include name-calling, destruction of personal belongings, torture or killing of a pet, excessive criticism, inappropriate or excessive demands, withholding communication, and routine labeling or humiliation.

**Neglect:** Child neglect is the failure of a parent or other person with responsibility for the child to provide needed food, clothing, shelter, medical care, or supervision to the degree that the child's health, safety, and well-being are threatened with harm. Neglect is also a lack of attention from the people surrounding a child, and the non-provision of the relevant and adequate necessities for the child's survival, which would be a lacking in attention, love, and nurture. Some of the observable signs in a neglected child include: the child is frequently absent from school, begs or steals food or money, lacks needed medical care, is consistently dirty, or lacks sufficient clothing for the weather.

Child abuse can result in immediate adverse physical effects but it is also strongly associated with developmental problems and with many chronic physical and psychological effects, including subsequent ill-health, including higher rates of chronic conditions, high-risk health behaviors and shortened lifespan.

**Child Labour:** Child labour refers to the employment of children in any work that deprives children of their childhood interferes with their ability to attend regular school, and that is mentally, physically, socially or morally dangerous and harmful. This practice is considered exploitative by many international organizations. Legislation across the world prohibits child labour. In developing countries, with high poverty and poor schooling opportunities, child labour is still prevalent. The term "child labour" is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that:

- is mentally, physically, socially or morally dangerous and harmful to children; and
- interferes with their schooling by:
  - depriving them of the opportunity to attend school;
  - obliging them to leave school prematurely; or
  - requiring them to attempt to combine school attendance with excessively long and heavy work.

### **Government Programmes related to Child Welfare and Development**

The following government schemes are for the welfare of children. The detail of each scheme is given as under:

**(i) Integrated Child Development Services (ICDS):** ICDS is an Indian government welfare programme which provides food, preschool education, and primary healthcare to children less than 6 years of age and their mothers. Anganwadi centers established mainly in rural areas and staffed with frontline workers are providing these services. In addition to fighting ill health and malnutrition, the programme is also intended to combat gender inequality by providing girls the same resources as boys. The predefined objectives of ICDS are:

- To raise the health and nutritional level of poor Indian children below 6 years of age.
- To create a base for proper mental, physical and social development of children in India.
- To reduce instances of mortality, malnutrition and school dropouts among Indian children.
- To coordinate activities of policy formulation and implementation among all departments of various ministries involved in the different government programmes and schemes aimed at child development across India.
- To provide health and nutritional information and education to mothers of young children to enhance child rearing capabilities of mothers in the country of India.
- To provide nutritional food to the mothers of young children & also at the time of pregnancy period.

The following services are sponsored under ICDS to help and to achieve the above the objectives:

- Immunization
- Supplementary nutrition
- Health check-up
- Referral services
- Pre-school non formal education
- Nutrition and Health information

**(ii) Integrated Child Protection Scheme (ICPS):** In 2006 the Ministry of Women and Child Development (MWCD) proposed the adoption of the Integrated Child Protection Scheme (ICPS). In 2009 the central government took the scheme and begun the extensive task of providing children with a protection and safe environment to develop and flourish. The purpose of the scheme is to provide for children in difficult circumstances, as well as to reduce the risks and vulnerabilities children have in various situations and actions that lead to abuse, neglect, exploitation, abandonment and separation of children. The specific objectives of the scheme are:

- To institutionalize essential services and strengthen structures
- To enhance capacities at all systems and persons involved in service delivery

- To create database and knowledge base for child protection services
- To strengthen child protection at family and community level
- To coordinate and network with government institutions and non-government institutions to ensure effective implementation of the scheme
- To raise public awareness about child rights, child vulnerability and child protection services.

Within care, support and rehabilitation services the scheme will provide CHILDLINE services, open shelters for children in need in urban and semi-urban areas, offer family based solutions through improving sponsorship, foster-care, adoption and after-care services, improve quality institutional services, and general grant-in-aid for need based/ innovative interventions. Within statutory support services the scheme calls for the strengthening of CWCs, JJBs, SJPU, as well as seeing to the set-up of these services in each district. Beyond this ICPS also outlines the need for human resource development for strengthening counseling services, training and capacity building, strengthening the knowledge-base, conduct research studies, create and manage a child tracking system, carry out advocacy and public education programmes, and monitoring and evaluation of the scheme. In order to ensure the objectives and approaches of ICPS are met, the scheme also calls for the establishment of new bodies within a service delivery structure.

#### **National Level**

- CHILDLINE India Foundation- Headquarters
- Child Protection Division in the National Institute of Public Cooperation and Child Development (NIPCCD)
- Central Adoption Resource Agency (CARA)

#### **Regional Level**

- Child Protection Division in the four Regional Centres of National Institute of Public Cooperation and Child Development (NIPCCD)
- Four Regional Centers of CHILDLINE India Foundation (CIF)

#### **State Level**

- State Child Protection Society (SCPS)
- State Adoption Resource Agency (SARA)
- State Child Protection Committee (SCPC)
- State Adoption Advisory Committee

#### **District Level**

- District Child Protection Society (DCPS)

- District Child Protection Committee (DCPC)
- Sponsorship and Foster Care Approval Committee (SFCAC)
- Block Level Child Protection Committee
- Village Level Child Protection Committee

The scheme outlines a specific implementation plan. It discusses the need of convergence of services to give the child the integrated plan. This is achieved through coordination of all department and ministries and NGOs involve.

**(iii) Juvenile Justice (Care and Protection) Act, 2006:** The Juvenile Justice Act was thus passed to provide care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the settlement of certain matters related to and disposition of delinquent juveniles.

### **Objectives**

- to lay down a legal structure for the juvenile justice system in the country
- to provide a special approach to the protection and treatment of juveniles
- to outline the machinery and infrastructure required for the care, protection, treatment, development and rehabilitation of juveniles
- to establish norms and standards for administration of juvenile justice
- to establish linkages and co-ordination between the formal system of juvenile justice and voluntary efforts in the welfare of juveniles
- to constitute special offences in relation to juveniles and provide punishment.

### **Features of the Act:**

1. The Act known as 'The Reformatory Act' deals with two categories of children, namely children in need of care and protection and children in conflict with the law.
  - The competent authority to deal with children in need of care and protection is the Child Welfare Committee which constitutes a Chairperson and four other members, one of whom at least should be a woman. Chapter IV of this Module would focus in detail about Children in need of care and protection and the functioning of the CWC in rehabilitation and disposition of cases
  - Juvenile Justice Board (JJB) is the competent authority to deal with children in conflict with law which comprises of three members. The Chairperson of the Board should be a First Class Judicial Magistrate and two honorary social workers out of whom at least one should be a woman. Special provisions for children in conflict with law and the responsibilities of the Board are discussed in detail in Chapter III of this Module.
2. The Act provides for the establishment of various kinds of Institutions such as:

- Children's Home for the reception of child in need of care and protection. Special Homes for the reception of child in conflict with law.
  - Observation Homes which are meant for the temporary reception of children during the pendency of any inquiry.
  - After-care Organizations which are meant for the purpose of taking care of children after they have been discharged from Children's Home or Special Homes.
3. A few sections in the Act (Sec 23 - 26) are focused on the offences committed by anyone against a child such as assault, causing mental or physical suffering and employment of a child which are considered as non-bailable offences.

### **Self-Check Exercise - 1**

Q.1 Write short note on Juvenile Justice (Care and Protection) Act, 2006.

### **16.4 Summary**

Dear learner in this unit we have discussed the Government Programmes related to Child Welfare and Development - ICDS and ICPS; Juvenile Justice (Care and Protection) Act, 2006 in detail.

### **16.5 Glossary**

**Child Care Institution** means Children Homes, Open Shelter, observation home, special home, and place of safety, Specialized Adoption Agency and a fit facility recognized under JJ Act, 2015 for providing care and protection to children, who are in need of such services. For the purpose of this document the term - child care institution shall be restricted to Observation Home, Special home and Place of safety. The term - Institution used in the document shall have the meaning of CCI which is restricted to Observation Home, Special home and Place of safety.

**Person-in-charge** means a person appointed for the control and management of the Child Care Institution.

**Special Home** means an institution established by a State Government or by a voluntary or non-governmental organization, registered under section 48, for housing and providing rehabilitative services to children in conflict with law, who are found, through inquiry, to have committed an offence and are sent to such institution by an order of the Board.

### **16.6 Answers to Self-Check Exercise**

#### **Self-Check Exercise – 1**

**Answer: Juvenile Justice (Care and Protection) Act, 2006** was passed to provide care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the settlement of certain matters related to and disposition of delinquent juveniles.

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## **16.8 Terminal Questions**

1. List and discuss the various Government Programmes related to Child Welfare and Development - ICDS and ICPS; Juvenile Justice (Care and Protection) Act, 2006.

## Unit - 17

### **Life-Saving Technologies: Organ Transplant and Sale, Right to Clean Environment and Public Safety, Right to Die in Dignity**

#### **Structure**

- 17.1 Introduction
- 17.2 Learning Objectives
- 17.3 Life-Saving Technologies, Organ Transplant and Sale, right to clean environment and right to die in dignity
  - Self-Check Exercise - 1
- 17.4 Summary
- 17.5 Glossary
- 17.6 Answers to Self-Check Exercise
- 17.7 References/Suggested Readings
- 17.8 Terminal Questions

#### **17.1 Introduction**

Dear learner this unit deals with the concept of Life-Saving Technologies, Organ Transplant and Sale, Right to Clean Environment, Right to Die in Dignity.

#### **17.2 Learning Objectives**

After completing this unit, you will be able to;

- discuss Life-Saving Technologies, Organ Transplant and Sale
- describe the Right to Clean Environment
- discuss the concept of Right to Die in Dignity

#### **17.3 Life-Saving Technologies, Organ Transplant and Sale, right to clean environment and right to die in dignity**

##### **Life-Saving Technologies: Organ Transplant and Sale**

The legislation called the Transplantation of Human Organ Act (THO) was passed in India in 1994 to streamline organ donation and transplantation activities. Broadly, the act accepted brain death as a form of death and made the sale of organs a punishable offence. With the acceptance of brain death, it became possible to not only undertake kidney transplantations but also start other solid organ transplants like liver, heart, lungs, and



pancreas. Despite the THO legislation, organ commerce and kidney scandals are regularly reported in the Indian media. In most instances, the implementation of the law has been flawed and more often than once its provisions have been abused. Parallel to the living related and unrelated donation program, the deceased donation program has slowly evolved in a few states. In approximately one-third of all liver transplants, the organs have come from the deceased donor program as have all the hearts and pancreas transplants. In these states, a few hospitals along with committed NGOs have kept the momentum of the deceased donor programs

The evolutionary history of transplants in the last four decades has witnessed a different facet of transplant emerging in each decade. The first 10 years were spent mastering the surgical techniques and immune-suppression. Its success resulted in a phenomenal rise in the numbers of transplants in the next 10 years and unrelated kidney donation from economically weaker sections started taking place with commerce in organ donation becoming an acceptable integral part of the program. After this was accepted, the ethics of transplants in India has always been on a slippery slope and all kinds of nefarious activities were accepted as normal practice. The general dictum was “when you can buy one why donate?” The next 10 years saw an outcry from the physicians of the western world at the growing numbers of these exploitative transplants being done in India. There were also protests from many sections in India. The pressure on the Government saw the passing of the Transplantation of Human Organ Act (THO) legislation that made unrelated transplants illegal and deceased donation a legal option with the acceptance of brain death. Overcoming organ shortage by tapping into the pool of brain-dead patients was expected to curb the unrelated transplant activity. The last decade has seen the struggle of the deceased donation program evolve in India. Simultaneously, it has witnessed the living donation program being marred with constant kidney scandals. In most instances, the donor accused the recipient or the middle man of having not compensated them with the promised sum. It also saw liver, heart, and pancreas transplants from deceased donors. Although the history of cadaver transplants in India is recent, the first attempts to use a cadaver donor’s kidney were undertaken in 1965 in Mumbai.

### **Provisions of the THO Act**

Provisions of the THO Act and the newly passed Gazette by the Government of India include the following:

1. For living donation - it defines who can donate without any legal formalities. The relatives who are allowed to donate include mother, father, brothers, sisters, son, daughter, and spouse. Recently, in the new Gazette grandparents have been included in the list of first relatives. The first relatives are required to provide proof of their relationship by genetic testing and/or by legal documents. In the event of there being no first relatives, the recipient and donor are required to seek special permission from the government appointed authorization committee and appear for an interview in front of the committee to prove that the motive of donation is purely out of altruism or affection for the recipient.
2. Brain-death and its declaration - brain death is defined by the following criteria: two certifications are required 6 hours apart from doctors and two of these have to be doctors nominated by the appropriate authority of the government with one of the two being an expert in the field of neurology.

3. Regulation of transplant activities by forming an Authorization Committee (AC) and Appropriate Authority (AA.) in each State or Union Territory. Each has a defined role as follows:
  - a. Role of Authorization Committee (AC) - The purpose of this body is to regulate the process of authorization to approve or reject transplants between the recipient and donors other than a first relative. The primary duty of the committee is to ensure that the donor is not being exploited for monetary consideration to donate their organ. The joint application made by the recipient and donor is scrutinized and a personal interview is essential to satisfy to the AC the genuine motive of donation and to ensure that the donor understands the potential risks of the surgery. Information about approval or rejection is sent by mail to the concerned hospitals. The decision to accept or reject a donor is governed by Sub Clause (3), Clause 9 of Chapter II of the THO act.
  - b. Role of Appropriate Authority (AA): The purpose of this body is to regulate the removal, storage, and transplantation of human organs. A hospital is permitted to perform such activities only after being licensed by the authority. The removal of eyes from a dead body of a donor is not governed by such an authority and can be done at other premises and does not require any licensing procedure. The powers of the AA include inspecting and granting registration to the hospitals for transplant surgery, enforcing the required standards for hospitals, conducting regular inspections of the hospitals to examine the quality of transplantation and follow-up medical care of donors and recipients, suspending or cancelling the registrations or erring hospitals, and conducting investigations into complaints for breach of any provisions of the Act. The AA issues a license to a hospital for a period of 5 years at a time and can renew the license after that period. Each organ requires a separate license.

The THO act despite having been passed 15 years ago has neither curbed commerce in organs nor helped promotion of the deceased donation program to take care of the organ shortage. The gap between the numbers of organs available and the number of patients joining the waiting list for a kidney transplant is widening globally. The high demand of organs has led to its commodification, more so in countries where there is a large proportion of the population below the poverty line with weak regulatory authorities. The resulting transplant tourism has caused an outcry from many international bodies. In India, the potential for deceased donation is huge due to the high number of fatal road traffic accidents and this pool is yet to be tapped. Few hospitals and committed NGOs in the country have shown that deceased donation as a feasible option. The ethics of kidney donation has important bearings on the society as this would form the basis to resolve many conflicts in emerging regenerative sciences.

### **Right to Clean Environment**

The Constitution of India is the main source of incorporating right to clean environment. Though the other important work of legislation is the Environment (Protection) Act, 1986 which provides a framework of coordination of activities between the Central government and the State government to prevent and control environmental pollution and degradation. Since the need for the protection of environment has been felt, so in this regard the two major

developments have been take place in our Constitution. “First development took place when the Constitution (42nd Amendment) act, 1976, was adopted. Part IV: Directive Principles of State Policy (Article 48 A) provides for protection and improvement and safeguarding of forests and wild life: The state shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country. Part IV-A: Fundamental duties (article 51-A): It shall be the duty of every citizen of India - (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures. Seventh schedule (Article 24) List III - Concurrent List Item no. 17 Prevention of cruelty to animals, Item no. 17 A Forests, Item no. 17 B Protection of wild animals and birds. The second major development related to the article 21 of the Constitution of India is dealing with ‘the right to life’. The concept of the right to life has been broadened through the judicial pronouncements. While resolving cases relating to environment, the judiciary considered the right to clean or good environment as fundamental to life and upheld as fundamental right.

So, it is quite clear that the environment in which we live greatly affects our health. The diseases from which people suffer are sometimes impossible to treat, thereby, leading to death of an individual. So, unhealthy environment actually interferes with person’s living life in dignity and deprives him from his life. Therefore, the boundaries of the fundamental right to life and personal liberty guaranteed in Article 21 were expanded to include environmental protection.

### **Right to Die in Dignity**

The issue of ‘right to die’ first came before a two judge bench of the Supreme Court of India in the case of P. Rathinam v. Union of India. In this case, section 309 IPC which penalizes attempt to suicide was held to be unconstitutional and violative of Article 21. In P. Rathinam’s case, the scope of life was broadened. It was held that ‘right to life and liberty’ under Article 21 also includes ‘right to die’. However, the debates over the issues didn’t stop. The question again came up for consideration before the Supreme Court in the case of Gian Kaur v. State of Punjab. It is prominent to note here that suicide was regarded as permissible in some circumstances in ancient India. According to the Hindu Vedantic philosophy, death is not the end of the life. It is only the sthulasharira (physical body), that dies. It is the Shukshmasarira (the astral body), that does not perish with the death of the body. The past karmas (thoughts and deeds) remain on the ‘shukshmasarira’ or astral body, and are retained even after death and goes tobhavarloka. The astral body then disintegrates and the components are merged in the ocean of energy with the eternal Parma Brahma (the supreme creator). Thereafter, they return by the will of god to another physical body and the individual is reborn on this earth in accordance with that person’s deeds and karmas births and deaths. It is a continuous process, the Lord Krishna says, “just as a person casts off worn out garments and put on others that are new, even so does the embodied soul cast off worn out bodies and take on others that are new”

Section 309 of IPC deserves to be effaced from the Statute book to humanize our penal laws. It is a cruel and irrational provision and it may result in punishing a person again who has suffered agony and would be undergoing ignominy because of his failure to commit suicide. Hon’ble Supreme Court has also expressed similar view in Aruna Ramchandra Shanbaug v. Union of India & Ors. An act of suicide cannot be said to be against religion. Morality or public policy, and an act of attempted suicide have no baneful effect on society. Further, suicide or attempt to commit suicide causes no harm to others; therefore the state’s interference with the personal

liberty of the concerned persons is not called for. Thus section 309 violates Article 21, and so void.

### **The question is whether the scope of Article 21 also includes the right to die?**

When a man commits suicide, he has to undertake certain positive overt acts and the genesis of those acts cannot be traced to or be included within the protection of the right to life under Article 21. The significant aspect of sanctity of life is also not being overlooked. Article 21 is a provision guaranteeing protection of life and personal liberty and by no stretch of imagination can extinction of life be read to be included in the protection of life. Whatever may be the philosophy of permitting a person to extinguish his life by committing suicide, the court reiterated that it is difficult to construe Article 21 to include within it the right to die as a part of fundamental right guaranteed therein. Right to life is a natural right embodied in Part III of constitution, but suicide is an unnatural termination or extinction of life and therefore, incompatible and inconsistent with the concept of right to life. Section 306 enacts a distinct offence, which is capable of existence independent of section 309 IPC. Section 306 prescribes punishment for abetment to suicide, while section 309 punishes attempt to commit suicide. Abetment of attempt to commit suicide is outside the preview of section 306 and is punishable only under section 309 read with section 107, IPC., In certain other jurisdictions, even though attempt to commit suicide is not a penal offence, yet the abettor is made punishable. The provision there provides for the punishment of abetment of suicide as well as abetment of attempt to commit suicide. Thus, even where the punishment for attempt to commit suicide is not considered desirable, its abetment is made a penal offence. In other words, assisted suicide and assisted attempt to commit suicide are made punishable for cogent reasons in the interest of society.

The Indian constitution under Article 21 confers the right to Life as the fundamental right of every citizen. The Right to Life enriched in Article 21 have been liberally interpreted so as to mean something more than mere survival and mere animal existence. The Supreme Court has asserted that Article 21 is the heart of the fundamental Rights provided under part III of the constitution. The Supreme Court has clearly stated that in order to treat a right as a fundamental it is not mandatory that it should be expressly stated as a fundamental right.

'The right to life' under Article 21 of the Constitution has received the widest possible interpretation under the able hands of the judiciary and rightly so. On the grounds as mentioned, Article 21 does not have a restrictive meaning and needs to be interpreted broadly. This affirms that if Article 21 confers on a person the right to live a dignified life, it should bestows the "Right to Die" also, but the inclusion of Right to die under Article 21 contradict the provision of Indian Penal Code under Section 309. As according to Section 309 of the Indian Penal Code 'Whoever attempts to commit suicide and does any act toward the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year (or with fine, or with both)'. This section is based on the principle that lives of men are not only valuable to them but also to the state which protects them. By considering both the laws the provision of IPC under section 309 is contradictory to the fundamental right guaranteed under Article 21 of the Indian Constitution. The state's power under section 309, IPC to punish a man for attempt to commit a suicide is questioned not only on the grounds of morality, but also on the constitutionality of the said provision. A lot of conflicting opinions have been given on desirability of retaining or abolishing section 309 of Indian Penal Code because of some

contrasting judgement given by various courts. A question may arise, in case of a dying man, who is, seriously ill or has been suffering from virulent and incurable form of disease he may be permitted to terminate it by a premature extinction of his life in those circumstances. This category of cases may fall within the ambit of 'Right to Die' with dignity as a part of life with dignity. According to the court these are not cases of extinguishing life but only of accelerating the process of natural death which has already commenced. In as much as the Supreme Court in Gian Kaur specifically stated that Euthanasia and Assisted Suicide are not lawful, it is obvious that so far as Euthanasia and Assisted Suicide are concerned, they will fall within one or other of penal provisions and continue to be unlawful thus the court did not proposed going to Euthanasia and Assisted Suicide. In Gyan Kaur the Supreme Court had declared it to be the duty of the doctor to keep his patient alive as long as possible even in case of terminal illness (except in case of persistent vegetative state) even if the patient and/or his family members request him to stop the treatment. Under common law a patient has to give his consent (informed consent) to medical treatment, including invasive treatment. When the patient is competent and wants withholding or withdrawal of treatment, that decision is also binding on the doctors provided the doctor is satisfied that the patient is competent and that this decision of the patient is an informed one then the doctor can ignore the patient's decision and decide what is in the best interests of the patient according to the view of a body of medical experts. There is, however, too much confusion and uncertainty in respect of criminal liability of the doctor in cases of passive euthanasia. In this section 'suicide' has not been separately defined but generally means 'a deliberate termination of one's own physical existence'. So for the applicability of Section 309 as this issue is concerned, the Law Commission of India has given opinion that once a competent patient decides not to take medicines and allows the nature to take its own course, the doctor has to obey the instructions of the patients, since this omission of this doctor is based on the patients direction, therefore, it is not an offence under Section 306 of IPC. On the basis of above discussion it can be inferred that since the withholding or withdrawal of life supporting equipment (which amounts to euthanasia) has been permitted by the Court in cases where a patient is in persistent vegetative state, doing so is neither illegal criminal in India. Motive of laws are to facilitate and regulate the life on planet. Laws are made for the people and it should be change to meet the aims and aspiration of the changing society. Legislation is duty bound to walk with the society.

### **Self-Check Exercise - 1**

**Q. 1** Which Article of Indian constitution confers the right to Life as the fundamental right?

### **17.4 Summary**

Dear learner in this unit we have discussed the concept of Life-Saving Technologies: Organ Transplant and Sale, Right to Clean Environment, Right to Die in Dignity in detail.

### **17.5 Glossary**

**Right to Constitutional Remedies:** This allows citizens to move the court if they believe that any of their Fundamental Rights have been violated by the State.

**Right to Equality:** All persons are equal before the law. This means that all persons shall be equally protected by the laws of the country. It also states that no citizen can be discriminated against on the basis of their religion, caste or sex. Every person has access to all public places

including playgrounds, hotels, shops etc. The State cannot discriminate against anyone in matters of employment. But there are exceptions to this that you will read about later in this book. The practice of untouchability has also been abolished

## **17.6 Answers to Self-Check Exercise**

### **Self-Check Exercise - 1**

**Answer:** The Indian constitution under Article 21 confers the right to Life as the fundamental right of every citizen.

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## **17.8 Terminal Questions**

1. Discuss in detail Life-Saving Technologies, Organ Transplant and Sale.
2. Explain in detail the Right to Clean Environment.
3. Explain the concept Right to Die in Dignity in detail.

## **Unit – 18 Transparency in Governance and Right to Information**

### **Structure**

- 18.1 Introduction
- 18.2 Learning Objectives
- 18.3 Transparency in Governance and Right to Information
  - Self-Check Exercise - 1
- 18.4 Summary
- 18.5 Glossary
- 18.6 Answers to Self-Check Exercise
- 18.7 References/Suggested Readings
- 18.8 Terminal Questions

### **18.1 Introduction**

Dear learner this unit deals with the concept of Transparency in Governance and Right to Information.

### **18.2 Learning Objectives**

After completing this unit, you will be able to;

- describe the concept of Transparency in Governance and Right to Information.

### **18.3 Transparency in Governance and Right to Information**

#### **Transparency in Governance and Right to Information**

Governance is described as the formation and stewardship of the formal and informal rules that regulate the public realm, the arena in which state as well as economic and societal actors interact to make decisions. The notion of “Governance” is used from prehistoric time by human civilization. Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance. Governance elucidates the mechanisms an organization uses to make certain that its components follow its established processes and policies. It is the primary way to maintain oversight and accountability in a loosely coupled organizational structure. In India, according to Tenth Five Year Plan, “Governance relates to the management of all such processes that, in any society, define the environment which permits and enables individuals to raise their capability levels, on one hand, and provide opportunities to realize their potential and enlarge the set of available choices, on the other” (Planning Commission, 2008). It has been revealed in reports that the Government of India is following a set of standards for reforming governance in the nation, which are



essentially citizen-centric transparency, accountability and efficiency of all institutions, agencies and actors of the government, with particular attention to those citizens who have been basically excluded so far. Governance is the exercise of economic, political, and managerial authority to manage account affairs at all level. It consists of the mechanisms processes and institutions levels (UNDP, 1997).

**Transparency:** Transparency is broadly accepted as a major principle of good governance (World Bank (2000) the UNDP has perceived that transparency means “sharing information and acting in an open manner” (1997). Furthermore, transparency allows stakeholders to collect information that may be critical to uncovering abuses and defending their interests. Transparent systems have flawless procedures for public decision-making and open channels of communication between stakeholders and officials, and make a wide range of information available UNDP (1997). Transparency represents that decisions taken and their enforcement are done in a way that follows rules and regulations. It also entails that information is easily available and directly accessible to those who will be affected by such decisions and their enforcement. According to Tandon (2002), transparency means that the criteria, process and systems of decision-making are openly known to all in a public manner. The declaration of Right to Information Act (2005) set the stage for the transparency in the functioning of the government and its various agencies. Under this Act, access to information from a public agency has become a statutory right of every citizen. In its enactment, it has been contended that the system of government in India is so impervious that ordinary peoples do not have much information about how decisions are made and how public resources are utilized. In effect, RTI Act is a media for greater transparency about the manner of functioning of public agencies. Transparency is required to make the system of public service delivery effective. It allows ready information to the citizens in a manner that they may be able to claim their entitlements. However, sheer knowledge of what entitlements are, and who is responsible for fulfilling them, is not sufficient to ensure that public services are passably and effectively delivered to the ‘intended’ recipients. Good governance regards accountability, transparency, openness, predictability, participation, political legitimacy, freedom of association and participation in the process of governance, an established legal outline based on the rule of law and the independence of judiciary to protect human rights and freedom of information and expression.

**Right to Information (RTI) Act 2005:** The Right to Information Act (RTI) is an Act of the Parliament of India “to provide for setting out the practical regime of right to information for citizens” and replaces the erstwhile Freedom of information Act, 2002. The Act applies to all States and Union Territories of India except Jammu & Kashmir. Under the provisions of the Act, any citizen may request information from a “public authority” (a body of Government or “instrumentality of State”) which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerize their records for wide dissemination and to proactively certain categories of information so that the citizens need minimum recourse to request for information formally. This law was passed by Parliament on 15 June 2005 and came fully into force on 12 October 2005.

**Objectives of RTI:** The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance

and make the government more accountable to the governed. The Act is a big step towards making the citizens informed about the activities of the Government.

**Process of RTI:** The RTI process involves reactive (as opposed to proactive) disclosure of information by the authorities. An RTI request initiates the process. Each authority covered by the RTI Act must appoint their Public Information Officer (PIO). Any person may submit a written request to the PIO for information. It is the PIO's obligation to provide information to citizens of India who request information under the Act. If the request pertains to another public authority (in whole or part), it is the PIO's responsibility to transfer/forward the concerned portions of the request to a PIO of the other authority within 5 working days. In addition, every public authority is required to designate Assistant Public Information Officers (APIOs) to receive RTI requests and appeals for forwarding to the PIOs of their public authority. The applicant is required to disclose his name and contact particulars but not any other reasons or justification for seeking information. The Central Information Commission (CIC) acts upon complaints from those individuals who have not been able to submit information requests to a Central Public Information Officer or State Public Information Officer due to either the officer not having been appointed, or because the respective Central Assistant Public Information Officer or State Assistant Public Information Officer refused to receive the application for information.

### **Self-Check Exercise - 1**

Q.1 CIC stands for?

Q.2 PIO stands for? Public Information Officer (PIO).

## **18.4 Summary**

Dear learner in this unit we have discussed the concept of Transparency in Governance and Right to Information in detail.

## **18.5 Glossary**

## **18.6 Answers to Self-Check Exercise**

### **Self-Check Exercise - 1**

**Answer 1:** CIC stands for Central Information Commission

**Answer 2:** PIO stands for Public Information Officer.

## **18.7 References/Suggested Readings**

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### **18.8 Terminal Questions**

1. Discuss the concept of Transparency in Governance and Right to Information in detail.

## Unit - 19

### Functions and Powers of National and State Level Human Rights Commission

#### Structure

- 19.1 Introduction
- 19.2 Learning Objectives
- 19.3 Composition, Functions and Powers of National and State Level Human Rights Commission
  - Self-Check Exercise - 1
- 19.4 Summary
- 19.5 Glossary
- 19.6 Answers to Self-Check Exercise
- 19.7 References/Suggested Readings
- 19.8 Terminal Questions

#### 19.1 Introduction

Dear learner this unit deals with the Functions and Powers of National and State Level Human Rights Commission.

#### 19.2 Learning Objectives

After completing this unit, you will be able to;

- explain the Composition, Functions and Powers of National and State Level Human Rights Commission

#### 19.3 Functions and Powers of National and State Level Human Rights Commission

The Functions and Powers of National and State Level Human Rights Commission are discussed as under:

**National Human Rights Commission (NHRC):** The Indian Parliament has enacted the Protection of Human Rights Act, 1993 for the Constitution of a National Human Commission, State Human Rights Commissions in the States and Human Rights Courts for better protection of human rights and for matters connected there with or incidental there to. Thus, it has a twin objective to fulfill, namely, establishment of institutional structure, both at Centre and State Levels, and to create enforcement machinery in terms of human rights courts for better protection of human rights.

**Structure of the NHRC:** Organizationally, NHRC consists of a Chairperson, Members, Secretary-General, Heads, Sub-heads and other staff of different divisions.

**Composition of the Commission:** The compositions of the commissions can be studied taking into consideration to following sub-points:

- (a) **Chairperson and other members:-** Section 3 of the Act envisages that the Commission shall consists of :
  - (ii) A Chairman who has been the Chief Justice of the Supreme Court;
  - (iii) One member who is, or has been, a Judge of the Supreme Court;
  - (iv) One member who is, or has been, the Chief Justice of a High Court.
  - (v) Two members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

In order to facilitate the work of the commissions, the Act i.e. "Section 12(a) i & ii" also lays down that the Chairpersons of the National Commission for Minorities, the National Commission for SC's and ST's and the National Commission for Women are to be deemed to be the members of the commissions for the discharge of certain functions.

- (b) **Appointing Authority:** - According to Section 4 of the Act, chairperson and members of the commission are appointed by the President of India on the basis of the recommendations of a committee comprising the Prime Minister, Speaker of the Lok Sabha, Home Minister, leading opposition in Lok Sabha and Deputy Chairman of Rajya Sabha.
- (c) **Terms:** - The terms of office of the chairman and members will be of five years from the date assumption of office or until the age of 70 years, whichever is earlier.
- (d) **Removal:** - The chairperson or any other member of the commission can only be removed from his office by an order of the President only.
- (e) **Head Quarter of the Commission:** - The Headquarter of the Commission shall be at Delhi and there is an additional provision in the Act to establish offices at other places in India with the prior approval of the central government.

**Functions and Powers of the Commission:** There are wide range of functions envisaged for the Commission under section 122 of the Act, 'all or any' of which are to be performed by it. These functions are:-

- (a) To inquire, on its own initiative or on a petition presented to it by a victim or any persons on his behalf, into complaints of-
  - (i) violation of human rights or abetment thereof; or
  - (ii) negligence in the prevention of such violation, by a public servant;
- (b) To intervene in any proceeding moving and abnegation of violation of human rights is pending before a court with the approval of such court.
- (c) To visit, under intimation of the State government any or any other institution under the control of the State government, where persons are demand or logged for purposes of

treatment, reformation or protection to study the living conditions of the intimates and make recommendations thereon;

- (d) To review the safeguard provided by or under the Constitution or any law for the time being in force for the protection of human rights, and recommend measures for their effective implementation;
- (e) To review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (f) To study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) To undertake and promote research in the field of human rights;
- (h) To spread human rights literacy among various sections of the society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- (i) To encourage the efforts of non-governmental organizations and institutions working in the field of human rights; and
- (j) To carry out such other functions as it may consider necessary for the promotion and protection of human rights.

**Powers Relating to Inquiries:** The Commission is vested with the wide-ranging powers relating to inquiries and investigation under the Act. While inquiring into complaints under the Act, the Commission could exercise all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular, in respect of the following:-

- (a) summoning and enforcement of the attendance of witnesses and examining them on oath;
- (b) discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from;
- (e) requisitioning any public record or copy thereof from any court or office;'
- (f) issuing commissions for the examination of witnesses or documents; and
- (g) any other matter which may be prescribed.

**Procedure and Regulations of the Commission:** In order to discharge the aforesaid functions of the Commission, certain procedures and regulations are followed by it. The Commission convenes its meeting at the discretion of the Chairman and also regulates its own procedures.

**Inquiry into Complaints:** The Commission while inquiring into complaints of violations of human rights, may call for the information or report from the Central Government or any State government or any other authority or organization subordinate thereto, within such time as may

be specified by it. If the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own; on the other hand if, on receipt of information or report, the Commission is satisfied that no further inquiry is required or that the required action has been initiated or taken by the concerned government or authority, it may not proceed with the complaint and inform the complainant accordingly.

**Steps after Inquiry:** The Commission may take any of the following step upon the completion of an inquiry:-

1. where the inquiry discloses to the Commission an act of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommended to the concerned government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;
2. approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;
3. recommend to the concerned government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;
4. subject to the provisions of clause (5) , of section 18 provide a copy of the inquiry report to the petitioner or his representative;
5. send a copy of its inquiry report together with its recommendation to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;
6. make public its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on its recommendations.

**State Human Rights Commission (SHRC):** The State level Commissions would accord quicker access to a decentralized complaints-redressal mechanism and would also help aggrieved parties save expenses which would otherwise be incurred from having to approach a single authority, located in Delhi, in a country as vast as India. The State Human Rights Commissions in India came into existence in October 1997. According to Section 21(1) of the Protection of Human Rights Act, 1993, a State Government may constitute a body to be known as the...(the name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned, to State Commission under Chapter V of the Act. The wording of this provision, especially the word 'may' indicate that it is not compulsory for the States to establish State Human Rights Commission. Thus it depends upon the discretion of the State. While under Section 3 of the Act, it is compulsory and mandatory for the Central Government to constitute a body to be known the National Human Rights Commission of Section 3 uses the words "shall constitute", it is simply optional under Section 21(1) for the State to constitute a State Human Rights Commission. Only a few states, namely West Bengal,



Assam, Madhya Pradesh, Tamil Nadu and Himachal Pradesh have so far established State Human Rights Commission by the end of March, 1997. Subsequently the Government of Punjab State has established such a Commission but Uttar Pradesh has simply notified the Constitution of a State Commission. Later on the example of above-mentioned States has been followed by the Government of Jammu and Kashmir. In its annual report of 1995-96, the National Human Rights Commission (NHRC) has recommended that State Commission be established at an early date in the remaining States also. The commission has, therefore, recommended that it should be mandatory for every State to establish State Human Rights Commission.

### **Constitution of State Human Rights Commission**

**(A) Composition of Commission:** The States Human Rights Commission shall consist of:

- a) A Chairmanship who has been a Chief Justice of a High Court.
- b) One member, who is, or has been a Judge of a High Court,
- c) One member who is, or has been a District Judge in the State.
- d) Two members to be appointed from amongst persons having knowledge of, or practical experience, in matters relating to human rights.

**(B) Appointment Authority:** The Chairperson and other Member of State Commission are to be appointed by the Government after obtaining the Recommendation of a Committee consisting of:

- a) Chief Minister
- b) Speaker of the Legislative Assembly
- c) Minister-in-Charge of the department Home in that State
- d) Leader of the Opposition in the Legislative Assembly

**(C) Removal of a Member of the State:** The Chairperson or any other Member can only be removed from his office by order of the President on the ground of misbehavior or incapacity after the Supreme Court, on a reference being made to it by the President has on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other member, as the case may be, ought on any such ground to be removed. This is however, subject to the provision of sub-section (2) of Section 23. Sub-Section (2) of Section 23 provides that notwithstanding anything contained in sub-section (1) of Section 23 the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member as the case may be:

- a) is adjudged an insolvent; or
- b) engages during his term of office in any paid employment outside the duties of his office; or
- c) is unfit to continue in office by reasons of infirmity of mind or body; or

- d) is of unsound mind and stands so declared by a competent court; or
- e) is convicted and sentenced to imprisonment for an offence within the opinion of the President involves moral turpitude.

This is to say, for the grounds mentioned in-sub-section (2) the President can remove the Chairperson or any other Member without making a reference to the Supreme Court.

**(D) Term of office of Members of the State Commission:** A person appointed as Chairperson or as a Member is appointed for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

**(E) Headquarter of the State Commission:** The headquarters of the State Commission has not been fixed or settled by the Act. It should have been at the State capital like that of NHRC, which is at national capital. It has been left to the discretion of that State Government to fix or settle the place.

**Jurisdiction of the State Commission:** Sub-section (5) of Section 21 provides that a State Commission may inquire into violation of Human Rights only in respect of matters relatable to any of the Entries enumerated in List II and List III in the Seventh Schedule to the Constitution. This is however subject to a provision that if any such matter is already being inquired into by the Commission (i.e. NHRC) or any other Commission duly constituted under any law for the time being in force, the State Commission shall not inquire into the said matter. The territorial jurisdiction of the National Human Rights Commission or the Commission has not been specifically mentioned or clarified in any provision of the Act although the wording of Section 12 in general indicates and imply that it extends to the whole territory of India. However negatively Article 36(1) curtails the jurisdiction by providing that the Commission shall not enquire into matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force. Besides this Section 36(2) provides that both the Commission and the State Commission shall not enquire into any matter after the expiry of one year from the date on which the Act constituting violation of human rights is alleged to have been committed.

The Commission has also recommended amendment of Article 36, As regards Article 36(1) the Commission has recommended that the Commission should be allowed to enquire into any matter notwithstanding the matter may be pending before a State Commission or other Commission except an Enquiry Commission established under Commission of Enquiry Act. As regard Article 36(2), the Commission has recommended that it should be entitled to enquire into any matter even though one year has elapsed. Thus, it is certain that a State Commission cannot inquire into violation of human rights in respect of matters relatable to any of the Entries enumerated in List 1. This is clear from sub-section (5) of Section 21 of the Act. But the National Commission may inquire into violation of human rights only in respect of matters relatable to any of the Entries enumerated in List II and List III. Thus there are chances of conflict between the jurisdictions of the Commission of State Commission.

### **Self-Check Exercise - 1**

Q. 1 What is NHRC?

### **19.4 Summary**

Dear learner in this unit we have discussed the Functions and Powers of National and State Level Human Rights Commission in detail.

### 19.5 Glossary

**Gender bias:** Making decisions based on gender that result in favoring one gender over the other which often results in contexts that are favoring men and/or boys over women and/or girls.

**Empowerment:** Refers to increasing the personal, political, social or economic strength of individuals and communities. Empowerment of women and girls concerns women and girls gaining power and control over their own lives. It involves awareness-raising, building self-confidence, expansion of choices, increased access to and control over resources and actions to transform the structures and institutions which reinforce and perpetuate gender discrimination and inequality.

### 19.6 Answers to Self-Check Exercise

#### Self-Check Exercise - 1

**Answer:** National Human Rights Commission (NHRC) :The Indian Parliament has enacted the Protection of Human Rights Act, 1993 for the Constitution of a National Human Commission, State Human Rights Commissions in the States and Human Rights Courts for better protection of human rights and for matters connected there with or incidental there to. Thus, it has a twin objective to fulfill, namely, establishment of institutional structure, both at Centre and State Levels, and to create enforcement machinery in terms of human rights courts for better protection of human rights.

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### **19.8 Terminal Questions**

1. State the Composition, Functions and Powers of National and State Level Human Rights Commission.

## Unit -20

### **International and National Acts and Conventions for Protection of Human Rights of Children and Women**

#### **Structure**

- 20.1 Introduction
- 20.2 Learning Objectives
- 20.3 International and National Acts and Conventions for Protection of Human Rights of Children and Women  
Self-Check Exercise - 1
- 20.4 Summary
- 20.5 Glossary
- 20.6 Answers to Self-Check Exercise
- 20.7 References/Suggested Readings
- 20.8 Terminal Questions

#### **20.1 Introduction**

Dear learner this unit deals with the International and National Acts and Conventions for Protection of Human Rights of Children and Women.

#### **20.2 Learning Objectives**

After completing this unit, you will be able to;

- list and discuss various International and National Acts and Conventions for Protection of Human Rights of Children and Women.

#### **20.3 International and National Acts and Conventions for Protection of Human Rights of Children and Women**

The Declaration on the Elimination of Violence against Women defines violence against women as 'any act of gender-based violence that results in , or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts coercion or arbitrary deprivation of liberty ,whether occupied in public or in private life. Crimes against women have been steadily on the rise'. The definition is broad in its coverage and recognizes the fact that violence can occur within the confines of the home. Violence against women can assume active or passive forms- a physical act of violence is not the only form of violence. Creating a hostile environment whether at work or at home or making disparaging and humiliating remarks also come within the preview of violence as they have psychological impact on the victim.

The primary and substantial victims of domestic violence are women. Under the Protection of Domestic violence Act of 2005, the definition of domestic violence includes abuse as well as the threat of abuse. It includes abuse that is physical, verbal and emotional sexual or economic in nature. The dowry Prohibition Act 1961 made the demanding and giving of dowry punishable under the law. Women face violence during infancy, and growing years like infanticide, neglect of nutrition needs, education and health care. As adults they face domestic violence, sexual abuse at workplace etc. In all such violence police intervention is not satisfactory. The United Nations defines violence against women as “any act of gender based violence that results in or is likely to result in , physical , sexual m, psychological harm or suffering to women, including threat of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or private life”. In spite of various efforts at regional, national and international level violence against women take place in every corner of the globe.

The convention on the rights of the children is the first legally binding international instrument to incorporate the full range of human rights—civil, cultural, economic, political and social rights. In 1989 world leaders decided that children needed a special convention, because people under 18 years old often need special care and protection that adults do not .The convention sets out these rights in 54 articles and two optional protocols. It spells out the basic human rights that children everywhere have; right to survival, to develop to the fullest, to protection from harmful influences, abuse and exploitation and to participate fully in family and cultural life. The four core principles of the convention are non-discrimination, devotion to the best interest of the child, the right to life, survival and development and respect for the views of the child. The convention protects children's rights by setting standards in health care, education and legal, civil and social services.

India became a party in 1992 to the international Convention on the Rights of the child, 1989, following popular demand. By agreeing to undertake the obligations of the convention, national governments have committed themselves to protect and ensure children's rights and they have agreed to hold themselves accountable for this commitment before the international community. While the rights of the child call for a comprehensive treatment, we shall confine to its two aspects in the context of the Indian society which have lately highlighted the need for urgent affirmative action. They are the incidence of violence against children, including violence by the criminal justice system, and the practice of child labor.

Notwithstanding the masses sages children are still subjected to various violence and exploitations there are reports about continued trafficking, child labour and violence against children even in their home. Some of them are subject to sexual harassment and police atrocities. In India, National Human Rights Commission have taken initiative in sensitizing and imparting training to state police forces, para-military forces and armed forces on human rights. There is also report of growing violence against street children in many urban areas. Parliament enacted Juvenile Justice Act, 1986 primarily for the care, protection, treatment, development and rehabilitation of neglected or delinquent children.

Large scale exploitation of children for a free or cheap labour has been a bane of independent India. Children are engaged in a variety of industries or vocations making of matches and fireworks, carpet making, glass bangle making, plastic and rope weaving, salt extraction, incense stick production, diamond cutting and polishing biscuit making and steel

rolling domestic work prostitution and construction work etc. Indeed child labour is more in the unorganized sector than the organized sector.

### **International Human Rights Treaties**

Besides the adoption in 1966 of the two wide-ranging Covenants that form part of the International Bill of Human Rights (namely the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights), a number of other treaties have been adopted at the international level. These are generally known as human rights instruments. Some of the most significant include the following:

- the Convention on the Prevention and Punishment of the Crime of Genocide (**CPCG**) (adopted 1948 and entered into force in 1951);
- the Convention Relating to the Status of Refugees (**CSR**) (adopted in 1951 and entered into force in 1954);
- the Convention on the Elimination of All Forms of Racial Discrimination (**CERD**) (adopted in 1965 and entered into force in 1969);
- the Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**) (entered into force in 1981);
- the United Nations Convention Against Torture (**CAT**) (adopted in 1984 and entered into force in 1987);
- the Convention on the Rights of the Child (**CRC**) (adopted in 1989 and entered into force in 1990);
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (**ICRMW**) (adopted in 1990 and entered into force in 2003);
- the Convention on the Rights of Persons with Disabilities (**CRPD**) (entered into force on May 3, 2008);
- the International Convention for the Protection of All Persons from Enforced Disappearance (adopted in 2006 and entered into force in 2010).

### **Laws Related to Women**

1. The Immoral Traffic (Prevention) Act, 1956
2. The Dowry Prohibition Act, 1961 (28 of 1961) (Amended in 1986)
3. The Indecent Representation of Women (Prohibition) Act, 1986
4. The Commission of Sati (Prevention) Act, 1987 (3 of 1988)
5. Protection of Women from Domestic Violence Act, 2005
6. The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013



7. केंद्र सरकार द्वारा महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न निवारण, प्रतिषेध एवं प्रतिरोध (अधिनियम, २०१३ की धारा २९ के अंतर्गत बनाये गये नियम)

8. The Criminal Law (Amendment) Act, 2013

### **Self-Check Exercise - 1**

Q.1 What is CAT?

Q.2 What is CRC?

### **20.4 Summary**

Dear learner in this unit we have discussed the International and National Acts and Conventions for Protection of Human Rights of Children and Women in detail.

### **20.5 Glossary**

**Human Rights Committee:** a United Nations body of 18 experts that meets three times a year to consider the five-yearly reports submitted by 162 UN member states on their compliance with the International Covenant on Civil and Political Rights, ICCPR.

**Human rights framework:** the evolving and interrelated body of international and regional instruments that define human rights and establish mechanisms to promote and protect them.

### **20.6 Answers to Self-Check Exercise**

#### **Self-Check Exercise - 1**

Answer 1: It refers to Convention Against Torture.

Answer 2: It refers to Convention on the Rights of the Child.

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## **20.8 Terminal Questions**

1. Discuss various International and National Acts and Conventions for Protection of Human Rights of Children and Women.