

2018 -19 Onwards	CORE PAPER XIV : HUMAN RIGHTS	IV
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Objective :

To learn the evolution of human rights.To find out various rights, and functioning of human rights commission.

UNIT I

1. Meaning –Nature – Scope – Theories of Human Rights
2. Historical Evolution of Human Rights
3. Universal Declaration of Human Rights
4. International Covenants on Economic, Social and Cultural Rights

UNIT II

1. Female Infanticide and Foeticide
2. Apartheid and Racial Discrimination
3. Genocide - Prisoners of War
4. International Covenants on the Elimination of all forms of Racial Discrimination

UNIT III

1. Constitutional Guarantees – Fundamental Rights
2. Directive Principles of State Policy
3. National and State Human Rights Commissions of India
4. Human Rights Court

UNIT IV

1. Women's Rights
2. Children's Rights
3. Refugee's Rights
4. Prisoner's Rights – Capital Punishment

UNIT :V

1. Amnesty International – Red Cross
2. America Watch and Asia Watch
3. International Commission of Jurist
4. PUCL – PUDR – CFD in India

Books for reference:

1. Adityasini ,ArchanaUpadhyay : Human rights
2. LinaGonsalves : Women and Human Rights
3. Nirmal .C.J.(Ed) : Human Rights in India
4. Sanajoaba.N : Human Rights
5. SudhiKapoor : Human Rights in the 21st Century

HUMAN RIGHTS

UNIT III –Lesson 1

Constitutional guarantees- Fundamental Rights:-

Fundamental rights are the basic human rights enshrined in the Constitution of India which are guaranteed to all citizens. They are applied without discrimination on the basis of race, religion, gender, etc. Significantly, **fundamental rights are enforceable by the courts**, subject to certain conditions.

Why are they called Fundamental Rights?

These rights are called fundamental rights because of two reasons:

1. They are enshrined in the Constitution which guarantees them
2. They are justiciable (enforceable by courts). In case of a violation, a person can approach a court of law.

List of Fundamental Rights

There are six fundamental rights of Indian Constitution along with the constitutional articles related to them are mentioned below:

1. Right to Equality (Article 14-18)
2. Right to Freedom (Article 19-22)
3. Right against Exploitation (Article 23-24)
4. Right to Freedom of Religion (Article 25-28)
5. Cultural and Educational Rights (Article 29-30)
6. Right to Constitutional Remedies (Article 32)

Introduction to Six Fundamental Rights (Articles 12 to 35)

1. Right to Equality (Articles 14 – 18)

Right to equality guarantees equal rights for everyone, irrespective of religion, gender, caste, race or place of birth. It ensures equal employment opportunities in the government and insures against discrimination by the State in matters of employment on the basis of caste, religion, etc. This right also includes the abolition of titles as well as untouchability.

2. Right to Freedom (Articles 19 – 22)

Freedom is one of the most important ideals cherished by any democratic society. The Indian Constitution guarantees freedom to citizens. The freedom right includes many rights such as:

- Freedom of speech
- Freedom of expression
- Freedom of assembly without arms
- Freedom of association
- Freedom to practise any profession
- Freedom to reside in any part of the country

3. Right against Exploitation (Articles 23 – 24)

This right implies the prohibition of traffic in human beings, *begar*, and other forms of forced labour. It also implies the prohibition of children in factories, etc. The Constitution prohibits the employment of children under 14 years in hazardous conditions.

4. Right to Freedom of Religion (Articles 25 – 28)

This indicates the secular nature of Indian polity. There is equal respect given to all religions. There is freedom of conscience, profession, practice and propagation of religion. The State has no official religion. Every person has the right to freely practice his or her faith, establish and maintain religious and charitable institutions.

5. Cultural and Educational Rights (Articles 29 – 30)

These rights protect the rights of religious, cultural and linguistic minorities, by facilitating them to preserve their heritage and culture. Educational rights are for ensuring education for everyone without any discrimination.

6. Right to Constitutional Remedies (32 – 35)

The Constitution guarantees remedies if citizens' fundamental rights are violated. The government cannot infringe upon or curb anyone's rights. When these rights are violated, the aggrieved party can approach the courts. Citizens can even go directly to the Supreme Court which can issue writs for enforcing fundamental rights.

Features of Fundamental Rights

- Fundamental rights are different from ordinary legal rights in the manner in which they are enforced. If a legal right is violated, the aggrieved person cannot directly approach the SC bypassing the lower courts. He or she should first approach the lower courts.

- Some of the fundamental rights are available to all citizens while the rest are for all persons (citizens and foreigners).
- Fundamental rights are not absolute rights. They have reasonable restrictions, which means they are subject to the conditions of state security, public morality and decency and friendly relations with foreign countries.
- They are justiciable, implying they are enforceable by courts. People can approach the SC directly in case of violation of fundamental rights.
- Fundamental rights can be amended by the Parliament by a constitutional amendment but only if the amendment does not alter the basic structure of the Constitution.
- Fundamental rights can be suspended during a national emergency. But, the rights guaranteed under Articles 20 and 21 cannot be suspended.
- The application of fundamental rights can be restricted in an area which has been placed under martial law or military rule.

Importance of Fundamental Rights

Fundamental rights are very important because they are like the backbone of the country. They are essential for safeguarding the people's interests.

-----Unit III –Lesson 2

Directive Principles of State Policy:

The Constitution of India aims to establish not only political democracy but also socio-economic justice to the people to establish a welfare state. With this purpose in mind, our Constitution lays down desirable principle and guidelines in Part IV known as the Directive Principle of State Policy.

The idea of Directive Principles of State Policy has been taken from the Irish Republic. They were incorporated in our Constitution in order to provide economic justice and to avoid concentration of wealth in the hands of a few people. Therefore, no government can afford to ignore them. They are in fact, the directives to the future governments to incorporate them in the decisions and policies to be formulated by them.

Features

1. Resemble the 'Instrument of Instructions' enumerated in the Government of India Act, 1935.

2. Aim at realising the high ideals of justice, liberty, equality and fraternity as outlined in Preamble to the Constitution.
3. Embody the concept of a 'welfare state'.
4. Seek to establish economic and social democracy.
5. Are non-justiciable.
6. Fundamental in the governance of the country.
7. Help the courts in examining and determining the constitutional validity of a law.

Classification

The Constitution does not contain any classification of the Directive Principles. However, on the basis of their content and direction, they can be classified broadly into socialist, Gandhian and liberal-intellectual.

Socialistic Principles:

1. to promote the welfare of the people by securing a social order permeated by social, economic and political justice and to minimise inequalities in income, status, facilities and opportunities. (Art 38)
2. to secure (a) the right to adequate means of livelihood for all citizens; (b) the equitable distribution of material resources of the community for common good; (c) prevention of concentration of wealth and means of production; (d) equal pay for equal work for men and women; (e) preservation of the health and strength of workers and children against forcible abuse; and (f) opportunities for healthy development of children. (Art 39)
3. to promote equal justice and to provide free legal aid to the poor. (Art 39A)
4. to secure the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement. (Art 41)
5. to make provision for just and humane conditions for work and maternity relief. (Art 42)
6. to secure a living wage, a decent standard of life and social and cultural opportunities for all workers (Art 43)
7. to take steps to secure the participation of workers in the management of industries (Art 43A)
8. to raise the level of nutrition and the standard of living of people and to improve public health. (Art 47)

The Gandhian Principles:

Based on Gandhian ideology, these include

1. to organize village Panchayats and endow them with necessary powers and authority to enable them to function as units of self government. (Art 40)
2. to promote cottage industries on an individual or co-operation basis in rural areas. (Art 43)
3. to promote voluntary formation, autonomous functioning, democratic control, and professional management of co-operative societies. (Art 43B)
4. to promote the educational and economic interests of SCs, STs and other weaker sections of the society and to protect them from social injustice and exploitation. (Art 46)
5. to prohibit the consumption of intoxicating drinks and drugs which are injurious to health. (Art 47)
6. to prohibit slaughter of cows, calves and other milch and drought cattle and to improve their breeds. (Art 48)

Liberal-Intellectual Principles:

These principles represent the ideology of liberalism and direct the state to

1. to secure for all citizens a uniform civil code. (Art 44)
2. to provide early childhood care and education for all children until they complete the age of 6 years. (Art 45)
3. to organise agricultural and animal husbandry on modern and scientific lines. (Art 48)
4. to protect and improve the environment and to safeguard forests and wildlife. (Art 48A)
5. to protect monuments, places and objects of artistic or historic interest which are declared to be of national importance. (Art 49)
6. to separate the judiciary from the executive in the public services of the state. (Art 50)
7. to promote international peace and security and maintain just and honourable relations between nations; to foster respect for international law and treaty obligations, and to encourage settlement of international disputes by arbitration. (Art 51)

Unit III –Lesson 3

National Human Rights Commission (NHRC)

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

- Human Rights are an indispensable part of society and Human Rights in India are watched by NHRC.
- NHRC acts as a watchdog of human rights in the country.
- NHRC looks over the rights that are related to life, dignity, liberty and equality of the individual that is defined in Section 2(1) of the PHR Act.
- They are guaranteed by the Constitution of India, embodied in the international covenants and are enforceable by the courts of India as well.
- NHRC was established in compliance with the Paris Principles of Human Rights, 1991 which were adopted for the promotion and protection of Human Rights and were endorsed by United Nations at its General Assembly of 1993

NHRC Composition – Members of NHRC for UPSC

- The National Human Rights Commission (NHRC) is composed of a Chairperson and eight other members.
- Those eight members are:
 - Four full-time members.
 - Four deemed members.

• **Members of NHRC**

Chairman of NHRC	Retired <u>Chief Justice of India</u>
Member 1	One who is/has been a Judge of <u>Supreme Court of India</u>
Member 2	One who is/has been a Chief Justice of a <u>High Court</u>
Two Members	Candidates with the knowledge or practical experience in the matters of Human Rights
Deemed Members (Ex-officio Members)	Deemed members are chairpersons of the below national commissions: <ol style="list-style-type: none"> 1. National Commission for Minorities 2. National Commission for Scheduled Castes 3. National Commission for Scheduled Tribes

4. National Commission for Women

Appointment of NHRC Members

- A Selection Committee will recommend the candidates to the President.
- The Selection Committee includes:
 - Prime Minister (Chairman)
 - Speaker of Lok Sabha
 - Union Home Minister
 - Deputy Chairman of Rajya Sabha
 - Leaders of the Opposition in both Houses of the Parliament

Functions & Powers of NHRC

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

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

Major Issues related to NHRC

The National Human Rights Commission (NHRC) takes up most of the issues around the country. Some of them are mentioned below:

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

Unit 3 Lesson 4

Human Rights Courts in India

Chapter VI Section 30 of the Protection of Human Rights Act, 1993 says that, Human Rights Courts 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 for each district a Court of Session to be a Human Rights Courts to try the said offences: Provided that nothing in this section shall apply if —

(a) A Court of Session is already specified as a special court; or

(b) A special court is already constituted, For such offenses under any other law for the time being in force.

Special Public Prosecutor -

Section 31 of the Protection of Human Rights Act 1993 provides for the appointment of special Prosecutors for every Human Rights Court to be appointed by the State Government who should be an advocate who has been in practice as an advocate for not less than seven years. He is to be designated as a Special Public Prosecutor for the purpose of conducting cases in that Court.

Human Rights Courts when established, will have the status of a Court empowered to administer the justice. Their status would be different from that of Human Rights Commissions whether National or of a State, form which has been given powers to inquire, investigate and recommend to Central or State Government steps to be taken or make petitions to the Supreme Court or a High Court. But are not empowered to hold Court themselves or even as appellate or revisional Court or to issue writs or directions in the matter coming before them. Section 36 of the said Act provides for matters which are not subject to jurisdiction of the National Human Rights Commission (1) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force. (2) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting and violation of human rights is alleged to have been committed.

Human Rights Courts in Districts:

Chapter VI of the said Act compressing of Section 30 and 31 makes the provision relating to the creation of Human Rights Courts in each district. This setting up of Human Rights court in every district of the country for the speedy trial of offenses arising out of the violation of human rights is a novel provision of the Act. These Court may be set up by the State government with the concurrence of the Chief Justice of the High Court by notification specifying for each district a Court of Session to be a Human Rights Court. For every Human Rights Court, the state government shall appoint a public prosecutor or an advocate who has been in practice as an advocate for not less than 7 years for the purpose of conducting cases in the human rights Courts such a person shall be called a special Public Prosecutor. Such Courts have been notified in the State of Andhra Pradesh, Assam, Sikkim, Tamil Nadu and Uttar Pradesh and have been constituted in Madras and Guwahati.

UNIT-4 LESSON-1

WOMEN RIGHTS

Women's rights are the fundamental human rights that were enshrined by the United Nations for every human being on the planet nearly 70 years ago. These rights include the right to live free from violence, slavery, and discrimination; to be educated; to own property; to vote; and to earn a fair and equal wage.

As the now-famous saying goes, "women's rights are human rights." That is to say, women are entitled to all of these rights. Yet almost everywhere around the world, women and girls are still denied them, often simply because of their gender.

Winning rights for women is about more than giving opportunities to any individual woman or girl; it is also about changing how countries and communities work. It involves changing laws and policies, winning hearts and minds, and investing in strong women's organizations and movements.

Global Fund for Women exists to support the tireless and courageous efforts of women's groups who work every day to win rights for women and girls. These groups are working to ensure women can own property, vote, run for office, get paid fair wages, and live free from violence – including domestic violence, sexual assault, and harmful practices such as female genital mutilation.

What rights do we stand for?

We want every woman and girl to realize the rights that are enshrined in the Universal Declaration of Human Rights. We also stand for other rights that are vital for women's equality. We stand for a woman's right to decide if and when she has children, and to have high-quality health care that means she won't die in pregnancy or during childbirth. We know female genital mutilation is a violation of girls' rights, and must be eliminated. And we stand for the right of every woman to live equally and free from discrimination, no matter her sexuality or identity.

We support two critical documents for women's rights that have followed the UN declaration. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), an international bill of rights for women, requires governments to end gender discrimination and affirms women's rights to health services, including family planning. The Beijing Declaration and Platform for Action, adopted in 1995 at the UN's Fourth World Conference in Beijing, was a rallying cry to embed gender equality and women's rights in every facet of life.

Women's rights and the Global Goals

The UN Millennium Development Goals set specific targets to reduce poverty, including targets for increased gender equality in education, work, and representation. UN Women found that progress was uneven. Globally, more women are now in school and work. Yet girls are still more likely than boys to be out of school (particularly at the secondary level). And although the number of women in elected office has risen, they are still only 21.8 percent of parliamentarians. What's more, women's rights remain at risk in many areas not addressed in the millennium goals – from violence against women to sexual and reproductive rights. And women who are already marginalized because of their race, caste, sexuality, income, or location see the fewest gains of all.

UNIT-4 LESSON-2

Child rights in India

India, in its bid to become an ethical labour market to international corporations in 1991, ratified the United Nations Convention on the Rights of the Children in 1992. The Convention stems from Jebb's desire to end the suffering of children, giving them instead a healthy, happy and safe environment that nurtured them physically, mentally, and emotionally. These facets find a strong resonance in the Convention.

Child rights go beyond just human rights, which exist to ensure fair and proper treatment of people across the world, and promote their well-being. Children, defined as any person under the age of 18, need more than just human rights due to a set of unique needs stemming from their vulnerabilities.

Further, the rights as described in the Convention have been summarised into the following fundamentals with references to various articles.

1. THE RIGHT TO AN IDENTITY (ARTICLES 7 AND 8)

Children are entitled to a name, legally registered with the government, and a nationality (to belong to a country). Further, they must have the right to an identity, in the form of a public record. This ensures national support, as well as access to social services.

2. THE RIGHT TO HEALTH (ARTICLES 23 AND 24)

Medical care, nutrition, protection from harmful habits (including drugs) and safe working environments are covered under the right to health, and articles 23 and 24 enumerate access to special care and support for children with special needs, as well as quality health care (including drinking water, nutrition, and a safe environment) respectively.

3. THE RIGHT TO EDUCATION, (ARTICLE 28)

Right to free primary education is critical for helping children develop

discipline, life skills while finding a safe and healthy environment to nurture a child's physiological development. This includes freedom from violence, abuse or neglect.

4. THE RIGHT TO A FAMILY LIFE (ARTICLES 8, 9, 10, 16, 20, 22 AND 40)

If not family members, then children have the right to be looked after by caretakers. Children must live with their parents until it is harmful to them. However, 'family reunification', i.e. permission for family members living in different countries to travel to renew contact between family members is critical. Under the ward of a caretaker or family, they must be provided privacy against attacks on their way of life and personal history.

Children who do not have access to a family life, have a right to special care and must be looked after properly, by people who respect their ethnic group, religion, culture and language. Refugee children have a right to special protection and help. In the case of misdemeanours, children have the right to seek legal counsel under a juvenile justice mechanism, with the fair and speedy resolution of proceedings.

5. THE RIGHT TO BE PROTECTED FROM VIOLENCE (ARTICLE 19 AND 34)

Protection from violence extends even to family members, and children must not suffer ill-treatment or sexual or physical violence. This includes use of violence as a means of discipline. All forms of sexual exploitation and abuse are unacceptable, and this Article takes into view the sale of children, child prostitution and child pornography.

6. THE RIGHT TO AN OPINION (ARTICLE 12 AND 13)

All children deserve the right to voice their opinions, free of criticism or contempt. In situations where adults are actively deciding upon choices on behalf of children, the latter are entitled to have their opinions taken into consideration. While children's opinion may not be based on facts, it is nonetheless an important source of insight for parents, and should be considered. However, this depends on the child's level of maturity and age. Children have the freedom of expression, as long as they are not harming others with their opinions and knowledge.

7. THE RIGHT TO BE PROTECTED FROM ARMED CONFLICT (ARTICLES 38 AND 39)

Armed conflict converts innocent children into refugees, prisoner, or participants in armed conflicts, and these are all circumstances which contravene with the spirit of War or any armed struggle can severely damage a child's morale as well as perceptions of ethics, and this must be corrected in a nurturing safe environment. While seeking to rehabilitate children affected by war, the government must also ensure that children are not forced to participate in any armed struggle.

8. THE RIGHT TO BE PROTECTED FROM EXPLOITATION (ARTICLES 19, 32, 34, 36 AND 39)

As exploitation is usually achieved through violent means, protection from violence is critical for freeing children from exploitation. This extends to abuse, negligence and violence by parents, even if it is justified as an instrument of achieving discipline at home. Further, children cannot be made to work in difficult or dangerous conditions. Children can only volunteer to work doing safe chores that do not compromise their health, or access to education or play. Sexual exploitation, another dimension of exploitation, is also prohibited, as an activity that takes advantage of them. Survivors of neglect, abuse and exploitation must receive special help to enable recovery and reintegration into society. Children also cannot be punished cruelly, even if it is under the ambit of the justice system. Death or life sentences, as well as sentences with adult prisoners, are not permitted.

Conclusion

All children deserve equality, despite their difference. They are entitled to all of these rights, no matter what race, colour, religion, language, ethnicity, gender or abilities define them.

UNIT-4 Lesson-3

The word prisoner means any person who is kept under custody in jail or prison because he/she committed an act prohibited by law of the land. A prisoner also known as an inmate is anyone who against their will is deprived of liberty. This liberty can be deprived by forceful restrain or confinement. Prisoners rights deal with the rights of the inmates while behind bars. Prisoners have basic legal rights that can't be taken away from them.[1]The basic rights include right to food and water, right to have an attorney to defend himself, protection from torture, violence and racial harassment. Section 1 of the Prison Security Act1992, defines the term prisoner. The word prisoner means any person for the time being in a prison as a result of any requirement imposed by a court or otherwise that he be detained in legal custody. This paper presents the rights of the prisoners in detail with related case laws.

2. International Human Rights Law: International human rights laws protect people from racial discrimination, from torture and from enforced disappearances. They also recognise the rights of

specific groups of people, including women, children, and people with disability, indigenous peoples and migrant workers. Some of these treaties are complemented by optional protocols that deal with specific issues or allow people to make complaints.

a. **UN Charter:**

The charter of the United Nations was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations conference on international organization, and came into force on October 24 1945. Basic Principles For The Treatment of Prisoners was adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990. The principles are as follows:

- 1, Prisoners shall be treated with inherent dignity and valued as human beings.
- 2, No discrimination on the grounds of race, sex, colour, language, religion, political, national, social origin, property, birth, or other status.
- 3, Respect the religious beliefs and cultural precepts of the group to which the prisoners belong.
- 4, The responsibility of the prisons for the custody of the prisoners and for the protection of the society against crime and its fundamental responsibilities for promoting the well-being and development of all members of the society.
- 5, All prisoners shall retain the human rights and fundamental freedoms set out in UDHR, ICESCR, ICCPR and the optional protocol as well as such other rights as are set out in other United Nations covenants.
- 6, Right of the prisoners to take part in cultural activities and education aimed at the full development of the human personality.
- 7, Abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken or encouraged.
- 8, Prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country labour market and permit them to contribute to their own financial support and to that of their families.
- 9, Access to health services without discrimination on the grounds of their legal situation.
- 10, With the participation and help of the community and social institutions and with regard to the interest of victims, favourable conditions shall be created for the reintegration of the ex-prisoner into society.
- 11, The above principles shall be applied impartially.

b. **International Bill of Rights:
I. Universal Declaration of Human Rights:**

In 1948 a movement was started in the United Nations in the form of Universal

Declaration of Human Rights which was adopted in the General Assembly of the United Nations. This organic document is also called as Human Rights Declaration. This important document provides some basic principles of administration of justice. Among the provisions in the document are follows:

- 1, No one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- 2, Everyone has the right to life, liberty and security of person.
- 3, No one shall be subjected to arbitrary arrest, detention or exile.
- 4, Every one charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

ii. The International Covenants On Civil And Political Rights, 1966:

The ICCPR remains the core instrumental treaty on the protection of the rights of the prisoners. Following relevant provisions of the covenants are as:

- 1, No one shall be subjected to cruel, inhuman or degrading treatment or punishments.

- 2, Everyone has the right to liberty and security of person. No one shall be subject to arbitrary arrest or detention.

- 3, All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person[4].

- 4, No one shall be imprisoned merely on a ground of inability to fulfil a contractual obligation.

C. UN Core Conventions And Specific Instruments:

- 1, Standard Minimum Rules For The Treatment of Prisoners: Amnesty International in 1955 formulated certain standard rules for the treatment of prisoners. Some important relevant rules are as follow:

- 1, Principle of equality should prevail; there shall be no discrimination on grounds of race, sex, colour, religion. Political or other opinion, national or social origin, property, birth or other status among prisoners.

- 2, Men and women shall so far as possible be detained in separate institution;

- 3, Complete separation between civil prisoners and persons imprisoned by reason of criminal offence; young prisoners should be kept separate from the adult prisoners.

4. All sorts of cruel inhuman degrading punishments shall be completely prohibited.

5. Availability of at least one qualified Medical officer with the knowledge of psychiatry.

6. Convention Against Torture And Other Cruel, Inhuman Or Degrading Treatment Or Punishment:

7. State party has to take effective legislative, judicial and other measures to prevent acts of torture.

8. No state party shall expel, return or extradite a person who is in danger of being subjected to torture.

9. State party should ensure that all acts of torture are offences under its criminal law.

3. Indian Law:

A. Constitution:

The rights guaranteed in the part III of Indian Constitution are available to prisoners; because a prisoner is treated as a person in prison.

Article 14 contemplated that like should be treated alike, and also provided the concept of reasonable classification. This article provides the basis for prison authorities to determine various categories of prisoners and their classification with the object of reformation. Indian constitution guarantees six freedoms to citizens of India, among which certain freedom cannot be enjoyed by the prisoners. They are freedom of movement, freedom to residence and to settle and freedom of profession#. But other freedoms conferred in this article are enjoyed by the prisoners. Moreover, constitution provides various other provisions though cannot directly be called as prisoner#s rights but may be relevant. Among them are Article 20(1), (2), and Article 21 and Article 22(4-7).

B. Enactments And Rules:

1. The Prisons Act, 1894:

This act is the first legislation regarding prison regulation in India. The following are some of the important provisions regarding prisoners rights:

1,Accommodation and sanitary conditions for prisoners.

2,Provisions relating to mental and physical state of prisoners.

3,Examination of prisoners by qualified medical officer.

4.Separation of prisoners for male, female, criminal, civil, convicted and under trial prisoners.

5,Provisions for treatment of under trials, civil prisoners, parole and temporary release of prisoners.

2. The Prisoners Act, 1990:

1,It is the duty of the government for the removal of any prisoner detained under any order or sentence of any court, which is of unsound mind to a lunatic asylum and other place where he will be given proper treatment.

2,Any court which is a high court may in case in which it has recommended to government the granting of a free pardon to any prisoner, permit him to be at

liberty on his own cognizance.

3. **The Transfer of Prisoners Act, 1950:**

This act was enacted for the transfer of prisoners from one state to another for rehabilitation or vocational training and from over-populated jails to less congested jails within the state.

4. **The Prisoners (Attendance in Courts) ACT, 1955:**

This Act contains provisions authorizing the removal of prisoners to a civil or criminal court for giving evidence or for answering to the charge of an offence.

UNIT-4 LESSON-4

Rights of Refugees

1951 Refugee Convention

The 1951 Refugee Convention is a UN treaty that defines who a refugee is and establishes the rights of such persons and also of those who are granted asylum.

- It is the main legal document that governs the working of the UNHCR.
- It is also called the Convention Relating to the Status of Refugees or the Geneva Convention of 28 July 1951.
- It also talks about the responsibilities and legal obligations of countries that grant asylum status to people.
- Apart from that, the Convention also defines those who are not eligible for asylum status, such as war criminals.
- This Convention is the central guiding document of international refugee protection today.
- The Convention defines a refugee as someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.
- The Convention is both a status and rights-based instrument and is underpinned by a number of fundamental principles, most notably non-discrimination, non-penalization and non-refoulement.
 - **Non-refoulement** is a fundamental principle of international law that forbids a country receiving asylum seekers from returning them to a country in which they would be in likely danger of persecution based on “race, religion, nationality, membership of a particular social group or political opinion”.
- The Conventions stipulates that a refugee shall not be prosecuted by a country for illegal entry.

- The Refugee Convention also prescribes some minimum standards for the treatment of refugees with respect to giving them rights of access to justice, education, travel, etc.
- **India is not a signatory to the 1951 Refugee Convention.**

1967 Protocol

The Protocol Relating to the Status of Refugees, alternatively known as the 1967 Protocol, is a major international document for refugee rights.

- The protocol expands the definition of a refugee given in the Convention.
- It also removes the Euro-centricity of the Convention.
- India is not a signatory to the 1967 Protocol.

UNHCR and India

Even though India is not a signatory to the Refugee Convention and the Protocol, and also does not have a national refugee protection framework, it accepts a large number of asylum seekers and refugees into the country.

- Though the country generally follows the principle of non-refoulement as defined in the UNHCR guidelines, India deals with different refugee groups differently, that is, on a case by case basis.
- Security considerations have led to the government granting asylum and refugee rights based on the group of people concerned.
- Most of the government-protected refugees are Tibetans and Sri Lankan Tamils.
- Some of the constraints that the UNHCR finds in working towards their goals in India are:
 - The lack of a national refugee protection framework.
 - Limited understanding among the local population of the plight of refugees results in a lack of empathy and often, exploitation and discrimination towards them.
- The steady rise in the number of asylum-seekers from Myanmar and Afghanistan during the past few years has reduced protection space.
 - Against the broader background of difficult socio-economic conditions for large segments of India's population, a rise in racism and xenophobia have undermined the tradition of tolerance in India.
- Security concerns and steps taken by the government in dealing with this might result in making things more difficult for refugees, especially in regularising their stay in the country.

- In January 2019, a Rohingya family was sent back to Myanmar by the government, and the UNHCR had expressed regret over the decision. The family had been detained in a prison in Assam for illegal entry since 2013. The UNHCR also sought clarification from the government on the return of Rohingya refugees.
 - India has had to deal with enormous refugee problems many times in its history since independence.
 - The partition led to millions being displaced from their homes.
 - The 1951 Refugee Convention talked about people who had lost the protection of their state of origin or nationality, which meant that it was applicable to only those who were fleeing state-sponsored or state-supported persecution.
 - This kept out Indians and Pakistanis who were displaced due to the partition, as they were fleeing social persecution.
 - India's apathy towards the Convention can be partly blamed on the international community's rejection of the plea of both India and Pakistan to include internally displaced people.
 - The 1971 war with Pakistan led to a huge influx of refugees from Bangladesh into the eastern border with India.
 - An estimated 10 million people fled to India by the end of 1971. This created a big drain on the resources of the country.
 - India's appeal for financial aid to the UN did not find much success, and the government had to contend with a pledge for a paltry amount.
 - Another reason the Nehru Government did not sign the Convention or the Protocol is the fear of unnecessary interference in India's internal matters by international powers.
 - The porous nature of the borders in the subcontinent, the resource crunch, the diverse demography and the political situation at the time made it impossible for India to be a signatory.
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UNIT -5, LESSON-1

AMNESTY INTERNATIONAL

The Amnesty International was formed in July 1961, in London, United Kingdom by the lawyers-Peter Benenson and Philip James. Amnesty draws attention to human rights abuses and campaigns for compliance with international laws and standards. It works to mobilize public opinion to generate pressure on governments where abuse takes place

How is Amnesty International Structured

Amnesty International is largely made up of voluntary members but retains a small number of paid professionals. In countries in which Amnesty International has a strong presence, members are organized as “sections”. Sections co-ordinate basic Amnesty International activities normally with a significant number of members, some of whom will form into “groups”, and professional staff.

They also co-ordinate basic activities but have a smaller membership and limited staff. In countries where no section or structure exists, people can become “international members”. Two other organizational models exist: “international networks”, which promote specific themes or have a specific identity, and “affiliated groups”, which do the same work as section groups but in isolation.

The organization is headed by a secretary-general for its day to day functions.

What is the objective of Amnesty International?

The main objective of Amnesty International is to conduct rigorous research and initiate measures to prevent and end grave abuses of human rights and to provide justice for the deprived section of the community.

What are the areas of work looked into by Amnesty International?

The major areas that are covered by the Amnesty International include –
Women's, children's, minorities' and indigenous rights

Ending torture

Abolition of the death penalty

Rights of refugees

Rights of prisoners of conscience

Protection of human dignity.

RED CROSS:-

Red Cross is an organization that was formed internationally in 1863 in Geneva, Switzerland. It was founded by Henry Dunant. There is another body that was formed in 1919 called the International Federation of Red Cross, and it functions to coordinate the activities that are carried out by Red Cross.

Today there are over 97 million volunteers who work with Red Cross, and they serve to protect human life. It was established during that time because the founder saw that so many people were suffering during the war. People were wounded, and there was no place they could receive treatment.

Standards:-

The Red Cross society has standards that are to be followed. One is that the society has to provide humanitarian activities like distribution of food, treating the wounded, and saving lives in times of calamities like floods and famine.

They are also required to be neutral in all situations and not just treat people because they belong to a certain ethnic group. Another standard is to provide voluntary services to the countries the members are in. This could be the execution

of projects that they are required to come up with. Unity is another standard that is required.

List of Members

There is no particular list of members in the society, but there are over 97 million volunteers who work with the organization. It is established in 80 countries, and the number of staff is about 12,000 worldwide, who are professionals like doctors and engineers.

Purpose of the Body

The main purpose of the body is to protect the life of human beings, those who suffer because of war or natural calamities like floods and famine, as well as a disease outbreak.

Functions of the Organization

The functions of the organization include: promoting values and principles of humanitarian; provide assistance in cases of emergency like the outbreak of wars or threatening diseases; provide education on volunteering and prepare other bodies for disasters; provide support for health care projects in the regions they are established and finally provide activities that are related to the youth.

Achievements of the Organization

The organization has achievements to save many lives in the world. They do this with the help of the natives in the countries they are established in. They have also been able to raise funds for the organization so that it can be able to carry out its operations.

Another major achievement is bringing peace to the countries that were fighting. They have also worked with the organizations that help them in the implementation of their projects like the UN. The UN has helped them with relief supplies and offered them protection when they go out to offer help to war victims.

Unit-5 Lesson-3

International Commission of Jurists

The International Commission of Jurists (ICJ) is a major human rights NGO involved in educating governmental officials, judges, business leaders, and others around the world about human rights. It describes itself as a global network of judges, lawyers, and human rights defenders united by international law and rule of law principles that advance human rights. Using our expertise in law, justice systems, and advocacy, we work for victims to obtain remedies, for those responsible for abuses to be held accountable, and for justice systems to be independent and active protectors of human rights. We work to change law and policy at the national and international levels when they do not adequately protect people from human rights violations.

NATURE OF THE EXTERN'S WORK AND SUPERVISION

The ICJ will assign the Michigan extern to a team, supervised by a lawyer when the ICJ determines its needs and can match them to a student's interest. Internships are available in the following areas:

International Law and Protection Programme
Focusing on aspects of the development and application of international human rights law, including economic social and cultural rights, sexual orientation and gender identity, women's human rights, international economic relations, global security and rule of law, and the United Nations.

Regional Programme
Focusing on specific legal issues in Africa, Asia-Pacific, Central America, Europe, the Middle East, and North Africa.

Participation in either programme offers the interns an opportunity to gain practical experience in human rights legal and advocacy work at the

international level, as well as experience in working in a professional office environment. Students build professional and personal relations with colleagues and counterparts who will be able to provide long-term professional advice, support, and encouragement to follow a career in this field. In addition, interns gain exposure to the practical functioning of the United Nations human rights bodies and mechanisms based on Geneva.

Externs are integrated into the ICJ's staff and become part of a team of junior support staff. They participate and contribute to staff meetings, discussions and briefing sessions, research human rights issues, draft papers and reports, maintain information databases, attend and take notes at outside meetings, and provide support to other ICJ activities. The extern's responsibilities are based on the needs of the ICJ and the candidate's interests.

Unit 5: Lesson 4

PUCL:(People's Union for Civil Liberties)

Jayaprakash Narayan was a Gandhian leader in India after independence. When Indira Gandhi was found guilty of violating electoral laws by the Allahabad High Court, Narayan called for her to resign, and advocated a program of social transformation. He asked the military and police to disregard unconstitutional and immoral orders. However, Janata Party opposition leaders and dissenting members of Indira Gandhi's party, Congress (I) were arrested, beginning The Emergency in 1975. Narayan was detained at Chandigarh, and when released in 1976, formed the PUCLDR to oppose the suppression of civil and political rights during the emergency. The organization was thrown into disarray by his death and the election of the Janata party to power, which promised to enact the PUCL platform.

Narayan originally intended PUCL to be an organisation free from political ideologies, bringing those concerned about defending civil liberties and human rights from different backgrounds onto a common platform. According to the PUCL, the PUCLDR was a loosely organised group of people who were working with Narayan, a prominent figure in the Indian Opposition in the 1970s. After the return of Indira Gandhi to power in the 1980 elections in India, the organisation regained momentum and was renamed as the People's Union for Civil Liberties (PUCL). Its founding conference was held in November 1980.

Operations

The founding conference of the PUCL in November 1980, drafted and adopted the organization's constitution, making it a membership based organization. The PUCL's constitution does not allow members of a political party to hold any office and hold membership in the PUCL; the number of members, belonging to political parties, in the national or state executive committees shall not be more than 50% of the members of the National Council and the National Executive Committee respectively (and also the corresponding bodies at the state and local level). The PUCL does not allow more than 10% of its members to be from the same political party.

It publishes a monthly journal in English, the PUCL Bulletin, that was founded by Satish Jha, Arun Jaitley, Smitu Kothari and Neeraja Chowdhary and helped bring a large number of people to the fold of PUCL. PUCL also organises a JP Memorial Lecture on March 23 every year, the date on which the Indian State of Emergency was lifted in 1977.

The PUCL supports grassroots movements that focus on organizing and empowering the poor rather than using state initiatives for change. They have brought to light the cases of the bonded labourers, children in prison and violence committed against women undertrials.

The PUCL has worked on the issue of the hundreds of people detained by India and Pakistan's governments and accused of espionage after trivial crimes like minor trespassing, a problem linked to the tension caused by the Kashmir conflict.

PEOPLE'S UNION FOR DEMOCRATIC RIGHTS

Over the last 40 years or more, the civil rights movement in India has emerged as an autonomous voice in defence of civil liberties and democratic rights of our people. The Peoples Union for Democratic Rights, Delhi, is one such organisation. It came into existence in 1977 as the Delhi unit of a larger national forum, PUCLDR, and became PUDR on 1 February, 1981.

In more than 40 years of its existence, PUDR has taken up hundreds of instances of violations of democratic rights, covering most parts of the country and involving the rights of many sections of society. PUDR conducts investigations, issues statements, distributes leaflets, organizes public meetings,

demonstrations and dharnas, initiates campaigns, petitions authorities and fights legal cases to highlight the violation of people's rights and help towards their redressal. Through its investigations, PUDR has raised the issues of custodial rapes, deaths and torture, consistently fought for the rights of marginalized peasants and agricultural workers, upheld working class rights across different sectors, campaigned for gender equality both at home and outside, opposed caste oppression and communal violence and, articulated the rights and access of people and communities towards equitable resources. PUDR opposes bans and upholds the right to freedom of speech, expression and association. For almost two decades PUDR has demanded the repeal of death penalty and has actively taken up the rights of those who have been condemned to the death row. Along with these, it has actively campaigned against anti-democratic legislations such as TADA, POTA, UAPA, AFSPA and others, and has engaged itself in legal defence of civil liberties and democratic rights. Some of PUDR's legal interventions have been of critical importance such as the Asiad labour petition which opened the doors to public interest litigation in India.

PUDR has always worked closely with similar democratic rights organizations located in different states and regions such as the Andhra Pradesh Civil Liberties Committee (APCLC), the Association for Protection of Democratic Rights (APDR), West Bengal, the People's Union for Civil Liberties, (PUCL), Committee for the Protection of Democratic Rights (CPDR), Mumbai and many others. Several reports and activities have been jointly undertaken and in recent times PUDR has been an active member of Coordination of Democratic Rights Organization (CDRO), a wider body of non-funded, democratic rights organizations.

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

accept foreign funds, or funds from any institutional funding agencies, foreign or national.

Unit -5 Lesson-4

CFD in India:-

Women and the poor are most important in the fight against poverty. They have imagination, guts, knowledge, experience and deep motivation to move out of poverty. As CFD study on “Voices of Poor and Women” shows that women and poor are no different from those of moderate and substantial means in their desire to live in a secure world (society or village) and to have access to income so they can educate, clothe, and house their children with dignity. They long to belong and participate in their communities on an equal footing with others, especially men. Most of all, they do not want charity. They want opportunity that gives them returns for their labor.

Over the years CFD provides support to social and human right defense activities and encourages and promotes open dialogue to protect the rights of minorities, including children, women and ethnic minorities. CFD also conducts awareness and sensitization programs on children’s and women rights and duties both at community and stakeholder levels. The elements of the program enable community participants to understand and debate their local power contexts and dynamics of empowerment in the local context.

Impact:-

People will know about, and understand, rights based legislation and the relevant duty bearers. People will acknowledge the negative effects of customary laws and gendered and ethnic / caste based social norms on women, Dalits and other excluded groups.

Outcome:-

Strengthened community groups and organisation, with equal participation of women, Dalits and poorest people managing and offering socio-economic services including advocacy on key issues such as rights, social justice, gender

equality and gender based violence in their communities in a sustainable manner.

Activities:-

- programme held with 493 participants and 472 graduating successfully, (78% – 89 women were Dalit). Total of 472 women graduated successfully from 2013-2019.
- REFLECT training of trainers 42 participants.
- REFLECT classes held in three VDCs, 209 classes, 4,161 participants. Community conversations on challenges and finding solutions locally from 2013-2019.
- PEER training of trainers 25 participants.
- Social mobilization training 29 participants.
- 68 women trained on leadership development and advocacy, gender & development.
- Animator selection, 20 in total.
- Radio programmes to broadcast information on CFD implementation of the programme including gender issues, case study reports, by interviews, interactions focusing on women's voices.

