

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.

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.

