

CLASS: I M.A., POLITICAL SCIENCE

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UNIT-IV

UNIT IV HUMAN RIGHTS AND WEAKER SECTION

WOMEN AND HUMAN 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.

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.

A promise to embed advances in women's rights, and include a specific goal (Goal 5) for gender equality. Goal 5 is more broad-based than the last gender goal and includes targets on ending gender-based violence, eliminating child marriage and female genital mutilation, and ensuring access to sexual and reproductive health. It also includes equal access to education, expanding women's economic opportunities, and

reducing the burdens of unpaid care work on women and girls. Now it is up to all of us to hold governments accountable for their commitments and make sure the goals are met. Involving women – and funding the solutions of grass-roots women’s groups – will be critical to success.

Attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations values. Women around the world nevertheless regularly suffer violations of their human rights throughout their lives, and realizing women’s human rights has not always been a priority. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are denied equality so as to develop appropriate strategies to eliminate such discrimination.

Numerous international and regional instruments have drawn attention to gender-related dimensions of human rights issues, the most important being the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979.

In 1993, 45 years after the Universal Declaration of Human Rights was adopted, and eight years after CEDAW entered into force, the UN World Conference on Human Rights in Vienna confirmed that women’s rights were human rights. That this statement was even necessary is striking – women’s status as human beings entitled to rights should have never been in doubt. And yet this was a step forward in recognizing the rightful claims of one half of humanity, in identifying neglect of women’s rights as a human rights violation and in drawing attention to the relationship between gender and human rights violations.

Human rights and fundamental freedoms should be birthrights, but across the globe some countries fail to accord human rights to women. Moreover, women are often victims of human rights abuses. Women’s human rights are abused when they cannot participate in decisions that affect their lives and are denied political participation and fair representation, when they are prevented from going to school or receiving health care, when they face discrimination in employment, when they are denied equal rights to own land and property, when they suffer from violence within their homes and when they are subjected to harmful traditional practices such as genital mutilation and honor killings.

Recognition of women’s rights began in some countries as they evolved from feudal into more representative forms of government. In the United States, awareness of women’s rights came with the ideals of the American Revolution. Strong and intelligent women such as Abigail Adams, wife of the second U.S. president, John Adams, demanded fair and equal treatment, and warned presciently, “If particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by

any laws in which we have no voice or representation.” She also advocated equal access to education for girls, writing to her husband, who then represented the new American republic in Paris: “I regret the trifling narrow contracted education of the females of my own country.” Women’s suffrage movements began in the United States and Great Britain in the mid-19th century and in a few European countries in the early 20th century.

Women’s human rights only emerged as a global movement during the United Nations Decade for Women (1976-1985), when women from many different geographic, cultural, religious, racial and class backgrounds came together and organized to improve the status of women. It was during this decade that the United Nations sponsored several women’s conferences — Mexico City in 1975, Copenhagen in 1980 and Nairobi in 1985 — to evaluate the status of women and to formulate strategies for women’s advancement.

Women’s human rights apply to both the “public” and “private” spheres of women’s lives. For many governments, however, addressing women’s rights in the “private” sphere is challenging because the private sphere is often thought to be beyond the purview of the state, exempt from governmental scrutiny and intervention (UNIFEM [now UN Women], About the Convention). As a result, in many countries, discrimination and violence against women and girls that occur in the family and under the guise of religious and cultural traditions and practices continue to remain hidden in the private sphere, where perpetrators of such human rights abuses typically enjoy impunity for their actions.

CHILDREN AND HUMAN RIGHTS

Children’s rights were recognised after the 1st World war, with the adoption of the Declaration of Geneva, in 1924. The process of recognition of children’s rights continued thanks to the UN, with the adoption of the Declaration of the Rights of the Child in 1959.

The recognition of the child’s interest and their rights became a reality on the 20 November 1989 with the adoption of the International Convention on the Rights of the Child which is the first international legally binding text recognizing all the fundamental rights of the child.

Children’s rights are human rights. They protect the child as a human being. As human rights, children’s rights are constituted by fundamental guarantees and essential human rights:

Children’s rights recognize fundamental guarantees to all human beings: the right to life, the non-discrimination principle, the right to dignity through the protection of physical and mental integrity (protection against slavery, torture and bad treatments, etc.)

Children’s rights are civil and political rights, such as the right to identity, the right to a nationality, etc.

Children's rights are economic, social and cultural rights, such as the right to education, the right to a decent standard of living, the right to health, etc.

Children's rights include individual rights: the right to live with his or her parents, the right to education, the right to benefit from protection, etc.

- Children's rights include collective rights: rights of refugee and disabled children, of minority children or from autochthonous groups.
- Children's rights are human rights specifically adapted to the child because they take into account their fragility, specificities and age-appropriate needs.
- Children's rights take into account the necessity of development of the child. The children thus have the right to live and to develop suitably physically and intellectually.
- Children's rights plan to satisfy the essential needs for good development of the child, such as the access to an appropriate alimentation, to necessary care, to education, etc.
- Children's rights consider the vulnerable character of the child. They imply the necessity to protect them. It means to grant particular assistance to them and to provide protection adapted to their age and to their degree of maturity.
- So, the children have to be helped and supported and must be protected against labour exploitation, kidnapping, and ill-treatment, etc.
- Children and young people have the same general human rights as adults and also specific rights that recognize their special needs. Children are neither the property of their parents nor are they helpless objects of charity. They are human beings and are the subject of their own rights.
- The Convention on the Rights of the Child sets out the rights that must be realized for children to develop to their full potential.
- The Convention offers a vision of the child as an individual and as a member of a family and community, with rights and responsibilities appropriate to his or her age and stage of development. By recognizing children's rights in this way, the Convention firmly sets the focus on the whole child.
- The Convention recognizes the fundamental human dignity of all children and the urgency of ensuring their well-being and development. It makes clear the idea that a basic quality of life should be the right of all children, rather than a privilege enjoyed by a few.

The importance of children's rights

There are many reasons for singling out children's rights in a separate human rights Convention:

- Children are individuals
- Children are neither the possessions of parents nor of the state, nor are they mere people-in-the-making; they have equal status as members of the human family.
- Children start life as totally dependent beings
- Children must rely on adults for the nurture and guidance they need to grow towards independence. Such nurture is ideally found from adults in children's families, but when primary adult caregivers cannot meet children's needs, it is up to the State as the primary duty bearer to find an alternative in the best interests of the child.
- The actions, or inactions, of government impact children more strongly than any other group in society
- Practically every area of government policy – from education to public health – affects children to some degree. Short-sighted policymaking that fails to take children into account has a negative impact on the future of all members of society.
- Children's views should be heard and considered in the political process
- Children generally do not vote and do not traditionally take part in political processes. Without special attention to the opinions of children – as expressed at home and in schools, in local communities and even in governments – children's views go unheard on the many important issues that affect them now or will affect them in the future.
- Many changes in society are having a disproportionate, and often negative, impact on children
- Transformation of the family structure, globalization, climate change, digitalization, mass migration, shifting employment patterns and a shrinking social welfare net in many countries all have strong impacts on children. The impact of these changes can be particularly devastating in situations of armed conflict and other emergencies.
- The healthy development of children is crucial to the future well-being of any society
- Because they are still developing, children are especially vulnerable – more so than adults – to poor living conditions such as poverty, inadequate health care, nutrition, safe water, housing and environmental pollution. The effects of disease, malnutrition and poverty threaten the future of children and therefore the future of the societies in which they live.
- The costs to society of failing its children are huge

- Social research findings show that children's earliest experiences significantly influence their future development. The course of their development determines their contribution, or cost, to society over the course of their lives.

MINORITY AND HUMAN RIGHTS

Human Rights are universal, and civil, political, economic, social and cultural rights belong to all human beings, including members of minority groups. Members of minorities are entitled to the realization of all human rights and fundamental freedoms on equal terms with others in society, without discrimination of any kind. Minorities -- both the individuals belonging to minorities and the minorities as groups -- also enjoy certain human rights specifically linked to their minority status, including their right to maintain and enjoy their culture, religion, and language free from discrimination

The human rights of minorities are explicitly set out in the Universal Declaration of Human Rights, the International Covenants, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities and other widely adhered to international human rights treaties and Declarations. They include the following indivisible, interdependent and interrelated human rights:

The human right of members of minorities to freedom from any distinction, exclusion, restriction or preference based on race, colour, national or ethnic origin, language, religion, birth, or any other status, which has the purpose or effect of impairing the enjoyment of human rights and fundamental freedoms

The human right of members of minorities to freedom from discrimination in all areas and levels of education, employment, access to health care, housing, and social services.

The human right of each member of a minority to equal recognition as a person before the law, to equality before the courts, and to equal protection of the law.

The human right of all members of minorities to participate effectively in cultural, religious, social, economic and public life.

The human right of members of minorities to freedom of association.

The human right of minorities to exist.

The human right of minorities to enjoy and develop their own culture and language.

The human right of minorities to establish and maintain their own schools and other training and educational institutions, and to teach and receive training in their own languages.

The human right of members of minorities to participate in shaping decisions and policies concerning their group and community, at the local, national and international levels.

The human right of minorities to autonomy in matters internal to the group, including in the fields of culture and religion.

Governments' Obligations to Ensuring the Human Rights of Minorities

What provisions of human rights law guarantee the Human Rights of Minorities?

Includes excerpts from the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention against Discrimination in Education, and the ILO Indigenous and Tribal Peoples Convention (No. 169).

"All human beings are born free and equal in dignity and rights.... Everyone is entitled to ... rights ... 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.... 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 ... and against any incitement to ... discrimination.... Everyone, without any discrimination, has the right to equal pay for equal work...."

--Universal Declaration of Human Rights, Articles 1, 2, 7, and 23

"States Parties...undertake to guarantee that ... rights ... will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.... The States Parties ... recognize the right of everyone to ... Fair wages and equal remuneration for work of equal value without distinction of any kind.... Equal opportunity for everyone to be promoted.... Education ... shall be made equally accessible to all."

--International Covenant on Economic, Social and Cultural Rights, Articles 2, 7, and 13

"Each State Party ... undertakes to ... ensure ... rights ... without distinction of any kind.... All persons shall be equal before the courts.... Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor.... All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.... The law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground..... In those States in which ethnic,

religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

--International Covenant on Civil and Political Rights, Articles 2, 14, 24, 26, and 27

"The Contracting Parties confirm that genocide ... is a crime under international law which they undertake to prevent and to punish.... [Genocide] means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group...: Killing members of the groups; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; forcibly transferring children of the group to another group."

--Convention on the Prevention and Punishment of the Crime of Genocide, Articles 1 and 2

"States Parties condemn racial discrimination and undertake to pursue ... a policy of eliminating racial discrimination in all its forms.... Each State Party undertakes to engage in no act ... of racial discrimination....; Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination...; Each State Party shall prohibit and bring to an end ... racial discrimination by any persons, group or organization.... States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, national or ethnic origin, to equality before the law, notably in the enjoyment of ... political rights ... civil rights ... economic, social and cultural rights, in particular: the right to work, ... to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work...; the right to housing; ... to public health, medical care, social security and social services; the right to education and training.... States Parties shall assure ... effective protection and remedies ... against any acts of racial discrimination.... "

--Convention on the Elimination of All Forms of Racial Discrimination, Articles 2, 5, and 6

"States Parties shall respect and ensure ... rights ... to each child ... without discrimination of any kind irrespective of the child=s or his or her parent=s or legal guardian=s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child=s parents, legal guardians, or family members.... States Parties recognize the important function performed by the mass media

and shall ensure that the child has access to information.... States Parties shall ... Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous.... States Parties recognize the right of the child to education, and ... shall ... make primary education compulsory and available free to all; ... make [secondary education] available and accessible to every child...; make higher education accessible to all.... States Parties agree that the education of the child shall be directed to ... the development of respect for the child=s parents, his or her own cultural identity, language and values.... In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language. "

--Convention on the Rights of the Child, Articles 2, 17, 28, 29 and 30

"... States Parties ... undertake: To ... discontinue any ... practices which involve discrimination in education.... It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and ... the use or the teaching of their own language...."

--Convention against Discrimination in Education, Articles 3 and 5

"Governments shall have the responsibility for ... Ensuring that [indigenous] peoples benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population.... Indigenous and tribal peoples shall enjoy ... human rights ... without ... discrimination.... Governments shall ... Establish means by which [indigenous] peoples can freely participate ... at all levels of decision-making in ... institutions and ... bodies responsible for policies and programmes which concern them.... The peoples ... shall have the right to decide their own priorities for ... development as it affects their lives ... and the lands they occupy ... and to exercise control ... over their ... development...."

--ILO Indigenous and Tribal Peoples Convention, (No. 169), Articles 2, 3, 6, and 7

SCHEDULED CASTE AND SCHEDULED TRIBES AND HUMAN RIGHTS

Scheduled Castes (SCs) and Scheduled Tribes (STs) are among the most disadvantaged socio-economic groups in India. With its focus on 'faster, sustainable and more inclusive growth' the 12th Five Year Plan highlights

that concerns of the poor, the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, minorities, differently abled and other marginalised groups must be addressed for growth to be inclusive.

The Government of India has enacted progressive legislation, programmes and schemes for the development and empowerment of the SCs and STs. The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA); The Provision of the Panchayats (Extension to the Scheduled Areas) Act, 1996; Minor Forest Produce Act 2005; and the Tribal Sub-Plan Strategy are focused on the socio-economic empowerment of STs. The Land Acquisition Bill, which has been renamed as The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2012 has a separate Chapter to protect the interests of SCs and STs. The Parliament of India passed The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Bill, 2013 in September 2013. This bill aims to eliminate the inhuman practice of manual scavenging and rehabilitation of liberated manual scavengers, all of them who belong to the Scheduled Castes.

The Government of India also has special schemes to enable access to opportunities including scholarships for education, financial support and skill building for setting up enterprises, reservations in jobs, and special courts to address instances of atrocities and violence.

Through the Scheduled Caste Sub Plan (SCSP) and the Tribal Sub Plan (TSP), the Government of India is channelling funds from the Planning Commission for the development of SCs and STs respectively. Of the total Plan budget, as of 2001, the Government of India has earmarked 16 per cent for the development of SCs and 8 per for the development of STs, in the Union and State Budgets.

If you are being discriminated against owing to your caste identity, this is a crime under the SC/ST PoA Act. It is important to know that such discrimination can happen anywhere — from a public place to your place of employment. You should file a complaint to the police against the person discriminating against you.

Which acts are considered as crimes against the Scheduled Caste/Scheduled Tribe (SC/ST) community?

Certain acts are considered crimes and are referred to as atrocities in legal terminology, when committed against a member of the SC/ST community. Some of these acts are:

- Hurting or boycotting an SC/ST member.
- Force-feeding an SC/ST member any disgusting substance that is not fit for humans to eat, such as cow dung, human excreta, etc..

- Dumping any disgusting substances (such as the bodies of dead animals, or excreta) inside or at the gate of a place where SC/ST members live, or in a neighbourhood of an SC/ST member, but only if it is done to insult or annoy him, etc.
- Not allowing an SC/ST member entry to a public place.
- Publicly abusing or insulting an SC/ST member with their caste name.

The punishment for these acts is imprisonment between 6 months and 5 years, along with a fine. For a full list of atrocities committed against SC/ST members that are covered under the law, please read this.

What is the punishment for making a false statement against a SC/ST member?

It is a crime to make a false statement against an SC/ST member, which leads them to being falsely accused of a crime. The punishment for this is as follows:

- If a SC/ST member is falsely accused of a crime punishable by death, one will face life imprisonment and a fine.
- If the false statement causes the SC/ST member to be given the death penalty, one may face the death sentence.
- If the false case/statements result in the SC/ST member being accused of a crime punishable with 7 years or more of imprisonment, one will face imprisonment of a term of 6 months to 7 years.

What does the illegal takeover of property belonging to a SC/ST member mean?

If someone forcefully takes over the property belonging to a SC/ST member, they can be punished under the SC ST (PoA) Act. It is considered illegal if it is done

- Without the agreement of the victim, or
- By threatening her or someone connected to her, or
- By making false records.