

Fundamentals of Human Rights (Paper Code: 22UPSOC2H01)

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Unit -1

Unit I: Introduction: Meaning and Definitions of Human Rights – Characteristics and Importance of Human Rights – Evolution of Human Rights – Formation, Structure and Functions of the UNO - Universal Declaration of Human Rights – International Covenants – Violations of Human Rights in the Contemporary Era.

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In the present chapter a brief introduction of the genesis of human rights will be taken into consideration. The historical background, the definition of human rights, the characteristics and nature of human rights will be dealt briefly. The landmarks in the development of human rights will be traced so as to know about the evolution of such rights. Further the classification of human rights will also be studied briefly.

1. Introduction

Human rights belong to each and every one of us equally.

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

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

Universality and inalienability

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

Indivisibility

Human rights are indivisible. Whether civil, political, economic, social or cultural in nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights. There is no such thing as a 'small' right. There is no hierarchy of human rights.

Inter-dependence and inter-relatedness

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

Meaning of Human Rights

In general terms Human Rights are entitlements due to every man, women and child because they are human. In other words certain inherent and inalienable rights are due to human beings simply of being human. The concept of human rights derives from human dignity and the inherent worth of a human being. Therefore, it is suggested that whatever adds to human dignity and the fundamental freedom of humans is a human right. In other words Human Rights are what each human being is entitled to as human being to live a dignified, secure life of his/her choice. All human being are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. This assumption is derived from the natural rights theory according to which the right to liberty and equality is man's birthright and cannot be alienated; and that because man is a rational and moral being he is different from other creatures on earth and therefore entitled to certain rights and

freedoms which other creatures may not enjoy. Formally Human Rights are proclaimed in the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations Organizations on 10 December 1948 and put into legal form in a number of international acts and treaties. However, there are differences of opinion with regard to meaning, nature, and content of Rights. It is a concept very much contested not only between the East (Representing former socialist States) and the West (representing liberal-democratic States) but also between developed and developing countries. Each group of nations has a different perception of human rights.

The so-called first world countries of the West believed in the supremacy of the individual, while the Communist countries of East focused on the community and the unconditional priorities of class interest. Hence, the individual benefited from these group rights, as his/her rights were better provided for, within the community. The Communists gave priority to economic, social and cultural rights and insisted that they could not be separated from the class character of society in which they existed, while the Liberal-democratic States of the West asserted the primacy of civil and political rights. This debate of priority of one set of rights over another continued to occupy the agendas of national and international governance during major part of the 20th century.

The newly emerging States of the Third World, while adopting the Eastern or Western model of human rights paradigms in their constitutions, or a combination of both, focused on solidarity or group rights such as right to self-determination of peoples, including sovereignty over their natural resources, the right to development, the right to a healthy and ecologically balanced environment, the right to peace and the right to ownership of the common heritage of mankind. They also insist on interdependence and indivisibility of civil and political rights to economic and social rights.

Thus, the modern concept of human rights is comprehensive in its nature and content. It includes three types of rights: civil and political, economic, social and cultural and the emerging collective or group rights. In fact, the catalogue of rights is expanding everyday. Moreover, it must be noted that no catalogue elaborating specific human rights will ever be exhaustive or final. Its content goes hand in hand with the state of moral consciousness, or development of civilization at any given time in history.

In short as per Indian constitution concern Human beings are born equal in dignity and rights. These are moral claims which are inalienable and inherent in all individuals by virtue of their humanity alone, irrespective of caste, colour, creed, and place of birth, sex, cultural difference or any other consideration. These claims are articulated and formulated in what is today known as human rights. Human rights are sometimes referred to as fundamental rights, basic rights, inherent rights, natural rights and birth rights.

Definitions of Human Rights

Dr. **Justice Durga Das Basu** defines "Human rights are those minimal rights, which every individual must have against the State, or other public authority, by virtue of his being a 'member of human family' irrespective of any consideration. Durga Das Basu's definition brings out the essence of human rights.

The **Universal Declaration of Human Rights (UDHR)**, 1948, defines human rights as "rights derived from the inherent dignity of the human person." Human rights when they are guaranteed by a written constitution are known as "Fundamental Rights" because a written

constitution is the fundamental law of the state.

In the words of **Bernard Bosanquet**, "we have a right to the means that are necessary to the development of our lives in the direction of the highest good of the community of which we are a part".

2.Characteristics and Importance of Human Rights

Following are the characteristics of human rights:

Human Rights are Inalienable - Human rights are conferred on an individual due to the very nature of his existence. They are inherent in all individuals irrespective of their caste, creed, religion, sex and nationality. Human rights are conferred to an individual even after his death. The different rituals in different religions bear testimony to this fact.

Human Rights are Essential and Necessary - In the absence of human rights, the moral, physical, social and spiritual welfare of an individual is impossible. Human rights are also essential as they provide suitable conditions for material and moral upliftment of the people.

Human Rights are in connection with human dignity - To treat another individual with dignity irrespective of the fact that the person is a male or female, rich or poor etc. is concerned with human dignity. For eg. In 1993, India has enacted a law that forbids the practice of carrying human excreta. This law is called Employment of Manual Scavengers and Dry Latrines (Prohibition) Act.

Human Rights are Irrevocable: Human rights are irrevocable. They cannot be taken away by any power or authority because these rights originate with the social nature of man in the society of human beings and they belong to a person simply because he is a human being. As such human rights have similarities to moral rights.

Human Rights are Necessary for the fulfillment of purpose of life: Human life has a purpose. The term "human right" is applied to those conditions which are essential for the fulfillment of this purpose. No government has the power to curtail or take away the rights which are sacrosanct, inviolable and immutable.

Human Rights are Universal – Human rights are not a monopoly of any privileged class of people. Human rights are universal in nature, without consideration and without exception. The values such as divinity, dignity and equality which form the basis of these rights are inherent in humannature.

Human Rights are never absolute – Man is a social animal and he lives in a civic society, which always put certain restrictions on the enjoyment of his rights and freedoms. Human rights as such are those limited powers or claims, which are contributory to the common good and which are recognized and guaranteed by the State, through its laws to the individuals. As such each right has certain limitations.

Human Rights are Dynamic - Human rights are not static, they are dynamic. Human rights go on expanding with socio-eco-cultural and political developments within the State. Judges have to

interpret laws in such ways as are in tune with the changed social values. For eg. The right to be cared for in sickness has now been extended to include free medical treatment in public hospitals under the Public Health Scheme, free medical examinations in schools, and the provisions for especially equipped schools for the physically handicapped.

Rights as limits to state power - Human rights imply that every individual has legitimate claims upon his or her society for certain freedom and benefits. So human rights limit the state's power. These may be in the form of negative restrictions, on the powers of the State, from violating the inalienable freedoms of the individuals, or in the nature of demands on the State, i.e. positive obligations of the State. For eg. Six freedoms that are enumerated under the right to liberty forbid the State from interfering with the individual.

Importance of Human Rights

Values of tolerance, equality and respect can help reduce friction within society. Putting human rights ideas into practice can help us create the kind of society we want to live in.

In recent decades, there has been a tremendous growth in how we think about and apply human rights ideas. This has had many positive results - knowledge about human rights can empower individuals and offer solutions for specific problems.

Human rights are an important part of how people interact with others at all levels in society - in the family, the community, schools, the workplace, in politics and in international relations. It is vital therefore that people everywhere should strive to understand what human rights are. When people better understand human rights, it is easier for them to promote justice and the well-being of society. The importance of human rights is given below:

1: **Human rights ensure people have basic needs met**

Everyone needs access to medicine, food and water, clothes, and shelter. By including these in a person's basic human rights, everyone has a baseline level of dignity. Unfortunately, there are still millions of people out there who don't have these necessities, but saying it's a matter of human rights allows activists and others to work towards getting those for everyone.

2: **Human rights protect vulnerable groups from abuse**

The Declaration of Human Rights was created largely because of the Holocaust and the horrors of WWII. During that time in history, the most vulnerable in society were targeted along with the Jewish population, including those with disabilities and LGBT. Organizations concerned with human rights focus on members of society most vulnerable to abuse from power holders, instead of ignoring them.

3: **Human rights allow people to stand up to societal corruption**

The concept of human rights allows people to speak up when they experience abuse and corruption. This is why specific rights like the right to assemble are so crucial because no society is perfect. The concept of human rights empowers people and tells them that they deserve dignity from society, whether it's the government or their work environment. When they don't receive it, they can stand up.

4: **Human rights encourage freedom of speech and expression**

While similar to what you just read above, being able to speak freely without fear of brutal reprisal is more expansive. It encompasses ideas and forms of expression that not everybody

will like or agree with, but no one should ever feel like they are going to be in danger from their government because of what they think. It goes both ways, too, and protects people who want to debate or argue with certain ideas expressed in their society.

5: Human rights give people the freedom to practice their religion (or not practice any)

Religious violence and oppression occur over and over again all across history, from the Crusades to the Holocaust to modern terrorism in the name of religion. Human rights acknowledge the importance of a person's religion and spiritual beliefs, and let them practice in peace. The freedom to not hold to a religion is also a human right.

6: Human rights allows people to love who they choose

The importance of freedom to love cannot be understated. Being able to choose what one romantic life looks like is an essential human right. The consequences of not protecting this right are clear when you look at countries where LGBT people are oppressed and abused, or where women are forced into marriages they don't want.

7: Human rights encourage equal work opportunities

The right to work and make a living allows people to flourish in their society. Without acknowledging that the work environment can be biased or downright oppressive, people find themselves enduring abuse or insufficient opportunities. The concept of human rights provides a guide for how workers should be treated and encourages equality.

8: Human rights give people access to education

Education is important for so many reasons and is crucial for societies where poverty is common. Organizations and governments concerned with human rights provide access to schooling, supplies, and more in order to halt the cycle of poverty. Seeing education as a right means everyone can get access, not just the elite.

9: Human rights protect the environment

The marriage between human rights and environmentalism is becoming stronger due to climate change and the effects it has on people. We live in the world, we need the land, so it makes sense that what happens to the environment impacts humanity. The right to clean air, clean soil, and clean water are all as important as the other rights included in this list.

10: Human rights provide a universal standard that holds governments accountable

When the UDHR was released, it had a two-fold purpose: provide a guideline for the future and force the world to acknowledge that during WWII, human rights had been violated on a massive scale. With a standard for what is a human right, governments can be held accountable for their actions. There's power in naming an injustice and pointing to a precedent, which makes the UDHR and other human right documents so important.

3. Evolution of Human Rights

The evolutions of human rights have taken place over centuries. Man had to struggle hard in order to achieve the ultimate goal – living with dignity – which still has to be realized in various societies. India itself is an example where women, children, dalits, bonded labourers, etc, is trying hard to be a part of mainstream. In spite of all these, the world recognized the U.N. Charter of 1945 which states that human rights are an inalienable aspect of mankind. The origin of human rights may be traced to the theory of Natural Rights derived from the concept of Natural Law, as

propounded by ancient Greek Stoic Philosophers and further developed by Thomas Hobbes and John Locke. The American and French Revolution gave further impetus to the struggle of human rights. The evolution and development of human rights in the international context can be traced to the Magna Carta and the English Bill of Rights followed by the French Declaration and the American Bill of Rights.

The twentieth century witnessed the crystallization of the philosophy of Human Rights when the United Nations adopted the UN Charter, 1945, The Universal Declaration of Human Rights, 1948 and the International Covenants on Human Rights with further emphasis to protection of rights of Women, Abolition of Slavery, Racial Discrimination, Civil and Political Rights, Economic, Social and Cultural Rights and most importantly the Rights of children.

In India the drafters of Constitution took care to incorporate Human Rights for its own citizens as well as for the aliens.

The important landmarks in the progress of human rights are as follows:

The Magna Carta, 1215.

The Magna Carta, also known as the Great Charter, of 1215 is the most significant constitutional document of all human history. The main theme of it was protection against the arbitrary acts by the king. The 63 clauses of the Charter guaranteed basic civic and legal rights to citizens, and protected the barons from unjust taxes. The English Church too gained freedom from royal interferences. King John of England granted the Magna Carta to the English barons on 15th June 1215. The king was compelled to grant the Charter, because the barons refused to pay heavy taxes unless the king signed the Charter.

The English Bill of Rights, 1689.

The next source and avenue of the development of the philosophy of human rights is the English Bill of Rights, enacted on December 16, 1689, by the British Parliament. The British Parliament declared its supremacy over the Crown in clear terms. The English Bill of Rights declared that the king has no overriding authority. The Bill of Rights codified the customary laws, and clarified the rights and liberties of the citizens.

It lays down the twin foundations, viz., the supremacy of the law, and the sovereignty of the nation, upon which, the English constitution rests.

American Declaration of Independence, 1776.

The first colonies to revolt against England were the thirteen States of America. These states declared their independence from their mother country on 4th July 1776. The declaration charges the king with tyranny and affirms the independence of the American colonies. The declaration of independence has great significance in the history of mankind as it justified the right to revolt against a government that no longer guaranteed the man's natural and inalienable rights.

The U.S. Bill of Rights, 1791.

The U.S. Constitution was enacted on 17th September 1787. The most conspicuous defect of the original constitution was the omission of a Bill of Rights concerning private rights and personal liberties. Madison, therefore proposed as many as twelve amendments in the form of Bill of Rights. Ten of these were ratified by the State legislatures. These ten constitutional amendments came to be known as the Bill of Rights. The overall theme of the Bill of Rights is that the citizen be protected against the abuse of power by the officials of

the States.

The French Declaration of the Rights of Man and of the Citizen, 1789

The fall of Bastille and the abolition of feudalism, serfdom and class privileges by the National Assembly ushered France into a new era. On 4th August 1789, the National Assembly proclaimed the Rights of Man and of the Citizens. The Rights were formulated in 17 Articles.

The Declaration of the Rights of Man and of the Citizen has far reaching importance not only in the history of France but also in the history of Europe and mankind. The declaration served as the death warrant for the old regime and introduced a new social and political order, founded on the noble and glittering principles. Further the declaration served as the basis for many Constitutions, framed in different countries, where the framers gave top priority to human rights.

Declaration of International Rights of Man, 1929.

After World War I, questions about human rights and fundamental freedoms began to be raised. In 1929, the Institute of International Law adopted the Declaration of International rights of Man. The Declaration declared that fundamental rights of citizen, recognized and guaranteed by several domestic constitutions, especially those of the French and the U.S.A constitutions, were in reality meant not only for citizens of the states but for all men all over the world, without any consideration.

The UN Charter, 1945.

The United Nations Charter was drafted, approved and unanimously adopted by all the delegates of the 51 states, who attended the United Nations Conference at San Francisco. The UN Charter contains provisions for the promotion and protection of human rights. The importance of the Charter lies in the fact that it is the first official document in which the use of 'human rights' is, for the first time traceable and which also recognized the respect for fundamental freedom.

The Universal Declaration of Human Rights, 1948.

The Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations on 10th December, 1948. The Declaration consists of thirty Articles and covers civil, political, economic, social and cultural rights for all men, women and children. The declaration however is not a legally binding document. It is an ideal for all mankind.

4. Formation Structure and Functions Of United Nation Organisation

The United Nations officially succeeded in existence on 24 October 1945, when the UN Charter had been ratified by a majority of the original 51 Member States. The day is now celebrated each year around the world as United Nations Day. The purpose of the United Nations is to bring all nations of the world together to work for peace and development, based on the principles of justice, human dignity and the well-being of all people. It allows

countries to balance global interdependence and national interests when addressing international problems.

There are currently 193 members of the United Nations. They meet in the General Assembly, which is the closest thing to a world parliament. Each country, large or small, rich or poor, has a single vote; however, none of the decisions taken by the Assembly is binding. Nevertheless, the Assembly's decisions become resolutions that carry the weight of world governmental opinion.

Structure

The work of the United Nations is carried out almost all over the world and is done by six main organs:

1. General Assembly
2. Security Council
3. Economic and Social Council
4. Trusteeship Council
5. International Court of Justice
6. Secretariat

i. General Assembly (GA)

This is the main decision-making and representative Assembly in the UN. It is responsible for upholding the principles of UN through its policies and recommendations. It is composed of all member states, headed by a President, elected from the member states and meets from **September to December** of each year.

It is expected to vote on important issues on the basis of 2/3 majority of those present. These include election of members to the organization, admission, suspension, expulsion of members, and budgeting. All other issues are based on majority vote. It can make recommendations on any matter, except issue bothering on peace and security, which are under the purview of the United Nations Security Council.

ii. Security Council (UNSC)

It is the executive organ of the UN and so the most powerful of all the other organs. It is expected to take decisions quickly and effectively so as to bring into operation the enforcement measures of Chapter vii of the UN Charter whenever international peace and security is threatened. Therefore, it has power to authorize deployment of UN troops to area where there is a breach of international peace. It can mandate a cease-fire during conflicts and can enforce penalties on any country that did not comply with its directives. It has five permanent members¹³ and ten rotating members.¹⁴ The ten members hold their seats for two year term, with member states voted in by the General Assembly on a regional basis.

In respect of the veto, the responsibility of maintaining international peace and security lies on the five permanent members and so has the final right on how the responsibility is to be exercised. The five permanent members hold veto over UN Resolution and this allows a permanent member to block adoption of any resolution.

The ten other members otherwise known as non-permanent members are elected for two years by the General Assembly and are not immediately eligible for re-election. The election is to be based on geographical distribution, i.e., five from Afro-Asia, one from Eastern Europe, two from Latin America and two from Western Europe and others. In addition, the General Assembly¹⁶, Secretary General, member states and non-member states can submit disputes to it.

iii. International Court of Justice (ICJ)

It is located in The Hague, Netherlands, and it is responsible for judicial matters that are brought to it by any of its members. This Court was supposed to continue with the work of the Permanent Court of International Justice (PCIJ) which was already in existence under the Covenant of the former League of Nations. Therefore, ICJ is the principal organ of the UN in matters relating to conflict resolutions of international disputes. By Article 93(1) of the Charter, all UN members are ipso facto parties to the Statute of the ICJ. Under Article 38 of the ICJ Statute, the function of the Court is to decide any dispute that is brought to it in accordance with international law. In the case of Northern Cameroon's case, it was held that the court can only interpret the law as it is and then give its advisory opinion, though, at times, it gives a binding judgment on the parties before it.

The court is composed of fifteen judges who serve for nine terms and they are appointed by the General Assembly. It has decided cases related to war crimes, illegal state interference, ethnic cleansing, and offer advisory opinions. On account of this, the court has performed well in adjudicating cases brought before it by the member nations.

iv. Economic and Social Council (ECOSOC)

It helps the General Assembly in promoting international economic and social cooperation and development. It has 54 members that are elected by the General Assembly for a three year term. The president is elected for a one year term. Its functions include information gathering, advising member nations and making recommendations. Its subsidiaries are United Nations Permanent Forum on Indigenous issues, UN Forum on forests, UN Statistical Commission, Commission on Sustainable Development.

v. Secretariat

It is headed by the Secretary General who is assisted by other supporting staff. It provides studies, information and other data when needed by the UN bodies for their meetings. It carries out other duties as may be directed by the Security Council, General Assembly, ECOSOC and others.

Functions of UNO

Peace and Security

Maintaining Peace and Security: By sending peacekeeping and observer missions to the world's trouble spots over the past six decades, the United Nations has been able to restore calm, allowing many countries to recover from conflict.

Preventing Nuclear Proliferation: For over the five decades, the International Atomic Energy Agency (IAEA) has served as the world's nuclear inspector. IAEA experts work to verify that safeguarded nuclear material is used only for peaceful purposes. To date, the Agency has safeguards agreements with more than 180 States.

Supporting Disarmament: UN treaties are the legal backbone of disarmament efforts:

- the Chemical Weapons Convention-1997 has been ratified by 190 States,
- the Mine-Ban Convention-1997 by 162,
- and the Arms Trade Treaty-2014 by 69.

At the local level, UN peacekeepers often work to implement disarmament agreements between warring parties.

Preventing genocide: The United Nations brought about the first-ever treaty to combat

genocide—acts committed with the intent to destroy a national, ethnical, racial or religious group.

The 1948 Genocide Convention has been ratified by 146 States, which commits to prevent and punish actions of genocide in war and in peacetime. The UN tribunals for Yugoslavia and Rwanda, as well as UN-supported courts in Cambodia, have put would be genocide perpetrators on notice that such crimes would no longer be tolerated.

Economic Development

Promoting Development: Since 2000, promoting living standards and human skills and potential throughout the world have been guided by the Millennium Development Goals.

- The UN Development Programme (UNDP) supports more than 4,800 projects to reduce poverty, promote good governance, address crises and preserve the environment.
- The UN Children's Fund (UNICEF) works in more than 150 countries, primarily on child protection, immunization, girls' education and emergency aid.
- The UN Conference on Trade and Development (UNCTAD) helps developing countries make the most of their trade opportunities.
- The World Bank provides developing countries with loans and grants, and has supported more than 12,000 projects in more than 170 countries since 1947.

Alleviating Rural Poverty: The International Fund for Agricultural

Development (IFAD) provides low-interest loans and grants to very poor rural people.

Focusing on African Development: Africa continues to be a high priority for the United Nations. The continent receives 36 per cent of UN system expenditures for development, the largest share among the world's regions. All UN agencies have special programmes to benefit Africa.

Promoting Women's Well-being: UN Women is the UN organization dedicated to gender equality and the empowerment of women.

Fighting Hunger: The Food and Agriculture Organization of the UN (FAO) leads global efforts to defeat hunger. FAO also helps developing countries to modernize and improve agriculture, forestry and fisheries practices in ways that conserve natural resources and improve nutrition.

Commitment in Support of Children: UNICEF has pioneered to provide vaccines and other aid desperately needed by children caught in armed conflict. The Convention on the Rights of the Child-1989 has become law in nearly all countries.

Tourism: The World Tourism Organization is the UN agency responsible for the promotion of responsible, sustainable and universally accessible tourism.

Its Global Code of Ethics for Tourism seeks to maximize the benefits of tourism while minimizing its negative impact.

Global Think Tank: The United Nations is at the forefront of research that seeks solutions to global problems.

- The UN Population Division is a leading source of information and research on global population trends, producing up-to-date demographic estimates and projections.
- The UN Statistics Division is the hub of the global statistical system, compiling and disseminating global economic, demographic, social, gender, environment and energy statistics.

- The United Nations Development Programme's annual Human Development Report provides independent, empirically grounded analyses of major development issues, trends and policies, including the groundbreaking Human Development Index.
- The United Nations World Economic and Social Survey, the World Bank's World Development Report, the International Monetary Fund's World Economic Outlook and other studies help policymakers to make informed decisions.

Social Development

Preserving Historic, Cultural, Architectural and Natural Sites: The UNESCO has helped 137 countries to protect ancient monuments and historic, cultural and natural sites.

- It has negotiated international conventions to preserve cultural property, cultural diversity and outstanding cultural and natural sites. More than 1,000 such sites have been designated as having exceptional universal value - as World Heritage Sites.

Taking the lead on global issues:

- The first United Nations conference on the environment (Stockholm, 1972) helped to alert world public opinion on the dangers faced by our planet, triggering action by governments.
- The first world conference on women (Mexico City, 1985) put women's right, equality and progress on the global agenda.
- Other landmark events include the first international conference on human rights (Teheran, 1968), the first world population conference (Bucharest, 1974) and the first world climate conference (Geneva, 1979).
- Those events brought together experts and policymakers, as well as activists, from around the world, prompting sustained global action.
- Regular follow-up conferences have helped to sustain the momentum.

Human Rights

UN General Assembly adopted the Universal Declaration of Human Rights in 1948.

- It has helped to enact dozens of legally binding agreements on political, civil, economic, social and cultural rights.
- UN human rights bodies have focused world attention on cases of torture, disappearance, arbitrary detention and other violations.

Fostering Democracy: The UN promotes and strengthens democratic institutions and practices around the world, including by helping people in many countries to participate in free and fair elections.

- In the 1990s, the UN organized or observed landmark elections in Cambodia, El Salvador, South Africa, Mozambique and Timor-Leste.
- More recently, the UN has provided crucial assistance in elections in Afghanistan, Burundi, the Democratic Republic of the Congo, Iraq, Nepal, Sierra Leone and Sudan.

Ending Apartheid in South Africa: By imposing measures ranging from an arms embargo to a convention against segregated sporting events, the United Nations was a major factor in bringing about the downfall of the apartheid system.

- In 1994, elections in which all South Africans were allowed to participate on an equal basis led to the establishment of a multiracial Government.

Promoting Women's Rights: The 1979 UN Convention on the Elimination of All Forms of

Discrimination against Women, ratified by 189 countries, has helped to promote the rights of women worldwide.

Environment

Climate change is a global problem that demands a global solution. The Intergovernmental Panel on Climate Change (IPCC), which brings together 2,000 leading Climate change scientists, issues comprehensive scientific assessments every five or six years.

- IPCC was established in 1988 under the auspices of the United Nations Environment Programme (UNEP) and the World Meteorological Organization for the purpose of assessing “the scientific, technical and socioeconomic information relevant for the understanding of the risk of human-induced climate change.
- UN Framework Convention on Climate Change (UNFCCC) provides foundation for UN members to negotiate agreements to reduce emissions that contribute to climate change and help countries adapt to its effects. (UNFCCC-1992 is an international environmental treaty adopted and opened for signature at the Earth Summit in Rio de Janeiro (Brazil) in 1992.)
- Global Environment Facility, which brings together 10 UN agencies, funds projects in developing countries.

Protecting the Ozone Layer: The UNEP and the World Meteorological Organization (WMO) have been instrumental in highlighting the damage caused to Earth's ozone layer.

- Vienna Convention for the Protection of the Ozone Layer-1985 provided the framework necessary to create regulatory measures for international reductions in the production of chlorofluorocarbons. Convention provided foundation for Montreal protocol.

International Law

Prosecuting War Criminals: By prosecuting and convicting war criminals, the UN tribunals established for the former Yugoslavia and for Rwanda have helped to expand international humanitarian and international criminal law dealing with genocide and other violations of international law.

The International Criminal Court is an independent permanent court that investigates and prosecutes persons accused of the most serious international crimes—genocide, crimes against humanity and war crimes—if national authorities are unwilling or unable to do so.

Helping to Resolve Major International Disputes: By delivering judgments and advisory opinions, the International Court of Justice (ICJ) has helped to settle international disputes involving territorial questions, maritime boundaries, diplomatic relations, State responsibility, the treatment of aliens and the use of force, among others.

Stability and Order in the World's Oceans:

- The 1982 UN Convention on the Law of the Sea, which has gained nearly universal acceptance, provides the legal framework for all activities in the oceans and seas.
 - It also includes mechanisms for settling disputes.

Combating International Crime: The UN Office on Drugs and Crime (UNODC) works with countries and organizations to counter transnational organized crime by providing legal and technical assistance to fight corruption, money-laundering, drug trafficking and smuggling of migrants, as well as by strengthening criminal justice systems.

- It has played a key role in brokering and implementing relevant international Treaties,

such as the UN Convention against Corruption-2005 and the UN Convention against Transnational Organized Crime-2003.

- It works to reduce the supply of and demand for illicit drugs under the three main UN conventions on drug control:
- the Single Convention on Narcotic Drugs of 1961 (amended 1972),
- the Convention on Psychotropic Substances-1971,
- and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances-1988

Encouraging Creativity and Innovation: The World Intellectual Property

Organization (WIPO) promotes the protection of intellectual property rights and ensures that all countries are in a position to harness the benefits of an effective intellectual property system.

Humanitarian Affairs

Assisting refugees: Refugees fleeing persecution, violence and war have received aid from the Office of the UN High Commissioner for Refugees (UNHCR).

- UNHCR seeks long-term or "durable" solutions by helping refugees repatriate to their homelands, if conditions warrant, or by helping them to integrate in their countries of asylum or to resettle in third countries.
 - Refugees, asylum-seekers and internally displaced persons, mostly women and children, are receiving food, shelter, medical aid, education, and repatriation assistance from the UN.

Aiding Palestinian Refugees: UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), a relief and human development agency, has assisted four generations of Palestinian refugees with education, health care, social services, microfinance and emergency aid.

§ Reducing the Effects of Natural Disasters: The World Meteorological

Organization (WMO) has helped to spare millions of people from the calamitous effects of natural and man-made disasters.

- Its early warning system, which includes thousands of surface monitors, as well as satellites,
- has made it possible to predict with greater accuracy weather-related disasters,
- has provided information on the dispersal of oil spills and chemical and nuclear leaks and has predicted long-term droughts.

Providing Food to the Neediest: The World Food Programme (WFP) is fighting hunger worldwide, delivering food assistance in emergencies and working with communities to improve nutrition and build resilience.

Health

Promoting Reproductive and Maternal Health: United Nations Population

Fund (UNFPA) is promoting the right of individuals to make their own decisions on the number and spacing of their children through voluntary family planning programmes.

Responding to HIV/AIDS: United Nations Programme on HIV/AIDS (UNAIDS) coordinates global action against an epidemic that affects some 35 million people.

Wiping Out Polio: Poliomyelitis has been eliminated from all but three countries—Afghanistan, Nigeria and Pakistan—as a result of the Global Polio Eradication Initiative.

Eradicating Smallpox: A 13-year effort by the World Health Organization (WHO) resulted in smallpox being declared officially eradicated from the planet in 1980.

5. Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) is an international document adopted by the United Nations General Assembly (UNGA). It establishes the rights and freedoms of all members of the human race.

It was accepted by the UNGA as per Resolution 217 during the session on December 10, 1948. Among the United Nations members at the time, 48 voted in favour, none against, 8 abstained and 2 did not vote.

Universal Declaration of Human Rights – Overview

The UDHR consists of 30 articles detailing an individual's "basic rights and fundamental freedoms". It is universally applicable for all human beings of varying race, religions and nationality.

It directly inspired the development of international human rights law, and was the first step in the formulation of the International Bill of Human Rights, which was completed in 1966 and came into force in 1976.

Even though the Universal Human Rights Declaration is not legally binding, its contents has been elaborated and incorporated into subsequent international treaties, regional human rights and instruments and in the legal codes of various countries

At least one of the 9 binding treaties of the UDHR has been ratified by all 193 member states of the United Nations, with the majority ratifying four or more.

History of the Universal Declaration of Human Rights

The United Nations was founded by 51 countries in October 1945, two months after World War II ended. Two world wars, the nuclear bombings of Hiroshima and Nagasaki and a global refugee crisis had led to fears of a destructive World War II.

The UN was founded to avoid such a disaster, as well as to address human rights. Out of all the people who wanted such notions to become a reality, it was Eleanor Roosevelt – the wife of the late United States President Franklin Delano Roosevelt – who would play a crucial role in the formulation of the Universal Human Rights Declaration

President Harry Truman appointed Eleanor Roosevelt to the US delegation to the United Nations in 1945. She was well known throughout the world as a champion of poverty allegations and universal civil rights. It was in April 1946, after becoming chair of the UN Commission on Human Rights, that she took on the task of drafting a human rights declaration for the world.

Eleanor's ideals about human rights and desire for global peace were influenced by her experiences of both the world wars where she had worked with shell-shocked soldiers undergoing psychological treatments during World War I while she had visited the devastated cities of Europe during the second world war.

Drafting the Universal Declaration of Human Rights was not at all an easy task. For starters:

Both the United States and the Soviet Union had their own definition of human or to put it simply could not agree on what human rights were.

Many conservative US politicians were not fond of supporting the economic and social rights of the UDHR because in their eyes such rights were 'communist' in their nature and scope.

However, Eleanor with her charm and diplomacy managed to gather enough support for the UDHR to be passed in a resolution.

Hansa Mehta, a UN delegate from the newly independent country of India and the only other woman on the Commission on Human Rights was crucial in shaping the declaration. It was she who changed the original declaration's first article from "All men are born free and equal" to "All human beings are born free and equal".

Even though the declaration isn't binding or enforceable. It would serve as a model for legislation in many countries.

After the draft was presented to the United Nations General Assembly, it was adopted on December 10, 1946.

December 10, the anniversary of the adoption of the Universal Declaration, is celebrated annually as World Human Rights Day or International Human Rights Day.

Structure of the Universal Declaration of Human Rights

The structure of the Universal Declaration of Human Rights was influenced by a set of laws formulated by Napoléon Bonaparte centuries before, collectively known as the Code Napoléon.

Its final structure took form in the second draft prepared by French jurist René Cassin, who worked on the initial draft prepared by Canadian legal scholar John Peters Humphrey.

The Declaration consists of the following:

The preamble gives details about the social and historical reasons that led to the formation of the UDHR.

It contains a total of 30 articles:

Articles 1 – 2 -The basic concepts of dignity, liberty and equality are established.

Articles 3 – 5 -Details of individual rights, such as the right to life and prohibition of slavery are explained in detail.

Articles 6 – 11 -Refers to the fundamental rights as well as the remedies for their violation.

Articles 12 – 17- Set forth the rights of the individual towards the community, including freedom of movement and residence within each state, the right of property and the right to a nationality.

Articles 18 – 21- These sets of articles refer to the rights of the individual towards the community, including freedom of movement, thought, opinion, expression, religion, peaceful association and ideas through any media.

Articles 22 – 27- Sanctions an individual's economic, social and cultural rights including healthcare. It also upholds the right to a better standard of living and makes a special mention of care given to motherhood or childhood.

Articles 28 – 30- It establishes the general means of exercising these rights, the areas in which the rights of the individual cannot be applied.

Significance of the Universal Declaration of Human Rights

The UDHR is widely regarded as a ground breaking document that provides a comprehensive and universal set of principles in a secular, apolitical document that is beyond cultural,

religious and political ideologies The Declaration was the first instrument of international law to use the phrase “rule of law”, thereby establishing the principle that all members of all societies are equally bound by the law regardless of the jurisdiction or political system.

In International law, a declaration is different from a treaty in the sense that it generally states aspiration or understanding among the parties, rather than binding obligations. For this reason, the Universal Declaration of Human Rights is a fundamental constitutive document of the United Nations and, by extension, all 193 parties of the UN Charter.

6. International Covenants

United Nations (UN) on December 16, 1966 adopted two covenants in its Resolution 2200 A (XXI): The International Covenant on Civil and Political rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR), these were made in pursuance of the Universal Declaration of Human Rights. Post the 1948 Universal Declaration of Human Rights, it gave the work to a committee to prepare a Covenant for the enforcement of such rights. This also led to debates between the capitalist and communist states, with countries such as the USA pressing the need for Liberty Rights, whereas other communist states insisting on economic, social and cultural rights. The deadlock in the interests between these led the UN to direct the committee to make two different Covenants.

1. International Covenant on Economic, Social and Cultural rights

The ICESCR is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966 as part of the larger resolution on Universal Declaration of Human Rights. It aspires to provide non-self-governing and trust territories and individuals, labour rights, right to health, right to education and the right to an adequate standard of living.

2. International Covenant on Civil and Political Rights

The ICCPR is a multilateral treaty adopted by the United Nations on December 16, 1966, and came into force on March 23, 1976. The Covenant commits parties to respect the civil and political rights of individuals, which includes, right to freedom of speech and expression, right to freedom of religion, Freedom of assembly, electoral rights, due process and a fair trial.

Objective

The international human rights movement was strengthened when the United Nations General Assembly adopted the Universal Declaration of Human Rights in 1948; this combined with the ICCPR and the ICESCR form the International Bill of Human Rights. The major objective of these Covenants is to ensure that each person is guaranteed these rights without any discrimination.

Human rights protect human beings and their dignity in war and in peacetime. These rights are protected under international law and it is the duty of states to ensure they are respected, protected and fulfilled. To this end, the United Nations has developed a body of binding conventions, all stemming from the 1948 Universal Declaration of Human Rights.

There are basically three distinct types of human rights:

- civil and political rights, e.g. the right to life, peaceful assembly and religious freedom
- economic, social and cultural rights, e.g. the right to work, to education, and to social security
- rights of the third generation, e.g. the right to development and to a clean and healthy environment

United Nations Conventions

Principal United Nations conventions on human rights:

UN Covenant I

The International Covenant on Economic, Social and Cultural Rights (ICESCR) covers human rights in the economic, social and cultural spheres.

UN Covenant II

The International Covenant on Civil and Political Rights (ICCPR) contains important guarantees for the protection of civil and political rights.

Racial discrimination

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is explicitly directed at discrimination based on race, colour, descent, as well as national and ethnic origin.

Discrimination against women

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) sets out in concrete terms the prohibition of discrimination of women in all stages of life.

Torture

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) obliges the states parties to prevent and punish acts of torture.

Rights of the Child

The Convention on the Rights of the Child (CRC) provides a comprehensive guarantee of the human rights of children and young people under 18 years of age.

People with disabilities

The Convention on the Rights of Persons with Disabilities (CRPD) ensures that people with disabilities enjoy all human rights and participate in public, economic and social life.

Enforced disappearance

The International Convention for the Protection of All Persons from Enforced Disappearance (CPED) aims to punish and combat the grave human rights violation of enforced disappearance.

7. Human Rights Violation

Human rights advocates agree that, seventy four years after its issue, the Universal Declaration of Human Rights is still more a dream than reality. Violations exist in every part of the world. For example, Amnesty International's 2009 World Report and other sources show that individuals are:

- Tortured or abused in at least 81 countries
- Face unfair trials in at least 54 countries
- Restricted in their freedom of expression in at least 77 countries

Not only that, but women and children in particular are marginalized in numerous ways, the press is not free in many countries, and dissenters are silenced, too often permanently. While some gains have been made over the course of the last six decades, human rights violations still plague the world today.

Types of human rights violations

Human rights breaches are committed by states either directly or indirectly. Violations might be committed by the state on purpose or as a consequence of the state's failure to prevent the violation. Various players, including the police, judicial ministers, attorneys, government officials, and others, can be involved when a state violates human rights. Physical violence, such as police harassment, is one type of violation, but other rights, such as the right to receive a fair trial, can also be infringed without the use of direct physical violence.

When there is a disagreement between people or groups within a society, the second form of violation occurs: the state's failure to protect individuals from human rights violations. The state is complicit in the abuses if it does nothing to intervene and safeguard vulnerable persons and groups. When lynchings happened often across the United States, the state was unsuccessful in protecting black Americans. Because many of those involved in the lynchings were also state actors (such as the police), this acts as an example of two sorts of breaches occurring simultaneously.

Forms of human rights violations

Caste-based discrimination and violence

The caste system in India is possibly the world's oldest social structure. It is a complicated system of social groupings based on ceremonial purity. A person is regarded as a component of the caste into which he is born and stays a member of that caste until death, albeit the status of that caste may change through time and between locations. The four major varnas, or main caste categories, have been used to characterize this more than 2,000-year-old structure in traditional learning. The Brahmins i.e the teachers and the priests are listed first. Then

come the Kshatriyas i.e. the fighters and rulers, then the Vaishyas i.e. the merchants and traders, and then the Shudras i.e. artisans and labourers. Lastly, the “untouchables” or Dalits, who are typically given jobs too ritually filthy to deserve membership in the conventional varna system, make up a fifth category that exists outside of the varna system.

Despite its formal prohibition in 1950, the phenomenon of “untouchability”—the imposition of societal disadvantages on people based on their caste—remains very much alive in rural India. Different facilities are provided for separate caste-based neighbourhoods, reinforcing “untouchability.” If they get anything at all, Dalits usually get the worst of whatever resources are available. The state authority provides power, sewage facilities, and water pumps in upper-caste sections of numerous villages, but neglects to do so in the segregated Dalit sections. Medical services and superior housing facilities are only found in regions of upper-caste settlement, as are basic utilities like water taps and wells. Civil rights of individuals get majorly restricted in the following domains owing to the caste dynamics in India:

Caste impacting marriage

Strict bans on marriage or other forms of social connection between castes are frequently used to impose stringent societal values of purity and contamination. While economic and social indices other than caste have grown in importance, permitting intermarriage among upper castes, major societal obstacles to marriage between higher and lower castes exist in many nations. This generally triggers violence between communities and may also lead to honour killings in severe cases.

Caste impacting labour

One of the core aspects of many caste systems is the allocation of work based on caste, with lower castes often relegated to duties and vocations regarded as too filthy or polluting for higher-caste populations.

Slavery and debt bondage

Poor pay for manual scavenging, agricultural work, and other low-caste jobs sometimes force families of lower castes into bonds. In most of the nations affected, the absence of enforcement of appropriate legislation outlawing debt bondage permits the practice to continue uninterrupted.

Disparities in caste and socio-economic status

Low literacy and lack of access to health care and education are common problems among lower-caste communities. Caste-based employment is perpetuated and its hereditary character is maintained through a lack of formal education or vocational training, as well as discrimination that effectively excludes them from many sorts of employment opportunities accompanied by the non-enforcement of protective legislation.

Access to educational opportunities

Low literacy and high dropout rates among lower-caste communities have been defined overly simplistically as inevitable results of underdevelopment and widespread poverty. However, these rates are partially due to low-caste children's desire to support their family's salaries via labour. Moreover, the biased and abusive treatment that low-caste children experience at the hands of their instructors and other pupils is more subtle and less well-documented but is a major factor impacting the education of these children.

Land availability

The majority of Dalit abuse victims in India are landless agricultural labourers, who constitute the backbone of our country's agrarian economy. Despite decades of land reform laws, more than 86% of Dalit households are landless or near landless today. Landowners frequently possess very little. In rural places, land is the most valuable possession that affects a person's level of life and social standing. Lack of access to land renders Dalits economically vulnerable and majorly dependent on upper and middle castes for monetary assistance. Subsequently, their dependence is abused by upper and middle caste landlords, allowing many crimes, like begar, to go unpunished.

Political rights and political representation

The Union formulated a policy of "reservations," or caste-based quotas, as an attempt to correct historical injustices associated with low-caste status. The constitution reserves federal government positions, seats in state legislatures, the national legislature, and educational institutions for scheduled castes and tribes to provide for proportional representation in national and state affairs. However, this policy has not yet been effectively applied and the representation of the lower castes in the mainstream functioning of a nation is still skewed.

Physical and economic punishment

The utilisation of social and economic factors is a key weapon in maintaining Dalits' low status in India. For refusing to perform various caste-based activities, Dalits are physically assaulted and threatened with social and economic exclusion from society. Any attempt to change village practices, oppose the social order or seek land, higher salaries, or political rights is met with violent and economic reprisal by those who stand to lose the most, i.e. the upper castes. Dalit communities as a whole are harshly punished for individual violations. During social boycotts, Dalits are deprived of communal land and jobs, Dalit women are majorly targeted, and the law to protect their rights is rarely implemented.

Communal and ethnic violence

India has more ethnic and religious groupings than almost any other country on the planet. There are eight mainstream faiths, 15 languages spoken in diverse dialects across 22 states and 9 union territories, and a large number of tribes and sects, in addition to the well-known 2000-odd castes. Three ethnic or religious wars have recently risen to prominence: two happened in the states of Assam and Punjab, while the third, the more well-known Hindu-Muslim conflict, is still ongoing. The Assam problem is essentially ethnic, the Punjab problem is mostly religious and regional, and the Hindu-Muslim conflict is primarily

religious.

Ethnic conflict in Assam

Assam has received the most recent attention in the three disputes discussed. Since India's division in 1947, there have never been so many people slain or displaced as a result of ethnic or sectarian conflict. It caused tens of thousands of persons to become victims of the mob violence which claimed thousands of lives, displaced lakhs of people, and drove a considerable number of people to flee the state for safety. Three culturally distinct groups have clashed in Assam: the Assamese, the Bengalis (both of which include Hindu and Muslim portions), and the tribals, who are small communities. This has majorly been a result of a large influx of migrants into northeast India, adversely impacting the natural habitat, livelihood and self-sufficiency of the local communities of the area. These conflicts had resurfaced in recent times during the Citizenship Amendment Act, 2019 (CAA) controversy.

Hindu-Sikh conflict in Punjab

Since August 1980, rising sectarian tensions between Hindus and Sikhs in Punjab have resulted in violent conflicts. Punjab had the greatest per capita income at the time of the conflict. It was the epicentre of India's Green Revolution, which benefited the affluent Sikh peasants the most. Sikhs are the majority in Punjab, while Hindus are the minority. Demand for greater radio time for religious broadcasts over government-controlled radio and a separate legislative act for Sikh gurudwaras were raised. Although religious symbols were used to mobilise Sikhs, and the separatist slogan of Khalistan (a sovereign state of Sikhs) was raised, the Sikh charter of demands had strong political and economic components.

Hindu-Muslim conflicts

History has put the greatest shadow over Hindu-Muslim relations of all the religious and ethnic conflicts in modern India. The partition of 1947 was the most crucial contemporary period in this history. Despite the fact that a Muslim sovereign state of Pakistan was founded amid horrific communal strife, virtually as many Muslims remained in India for varying motives. The division did not resolve the Hindu-Muslim conflict. Rather, it worsened the status of Hindu-Muslim relations in India, causing perpetual tension to exist between the two groups. Even 75 years after independence, the situation persists. Riots and conflicts between Hindus and Muslims continue to take place across the nation.

Violation of freedom of speech and expression

The spirit of free speech is the capacity to think and speak freely, as well as to learn from others via publications and public debate, without fear of being regulated or suppressed by the government. The first requirement of emancipation is freedom of expression. It is believed that the freedom to express one's opinions, thoughts and feelings acts as the guardian of all other rights since it has a prominent and crucial position in the hierarchy of liberty.

The right to freely express one's thoughts by words, writing, printing, photographs, or any other methods is known as freedom of speech and expression. In recent years, it has become commonly understood that the right to free expression lies at the heart of a free society and

must be safeguarded continually. The uninterrupted flow of speech through an open medium is the primary principle of a free society. The freedom to communicate one's thoughts and beliefs without impediment, and especially without fear of punishment, is crucial to the growth of a community and, eventually, a state. It is one of the most basic fundamental rights protected from government restriction or control.

In India, Article 19 of the Indian Constitution guarantees the freedom of speech and expression to all citizens of India. It consists of the freedom of the press, the right to silence, the right to report and broadcast, as well as the right to be informed. It is a qualified right and is subject to certain restrictions to ensure it doesn't violate others' fundamental rights or the security of the state. Freedom of speech can be curbed to the extent that it does not adversely impact the sovereignty and integrity of India, security of the State, maintenance of friendly relations with foreign states, decency and morality, or cause a contempt of court or defamation. It is essential to protect and uphold these rights to improve the democratic structure of our country and improve the accountability of the state actors. In case the right to free speech and expression is curbed without any reasonable explanation, it may cause repression of constructive criticism and the establishment of an autocratic government.

Violence against women

Discrimination and violence against women are widespread in India, limiting educational achievement and earning capacity, as well as having substantial economic and societal consequences. With increases in the occurrence of domestic abuse during the lockdown, COVID-19 has highlighted the fault lines of gender equality. Men and boys should be educated about gender issues through social programmes, and community-level platforms such as Self-Help-Groups (SHGs) should be enhanced to give information on women's safety, sexual and reproductive health, and family planning options. There are several dynamics that gender plays with other social and economic factors:

Dynamics of gender with caste

Women from lower castes are at the bottom of the class, caste, and gender hierarchies. They always endure the burden of abuse, discrimination, and physical violence since they are largely illiterate and constantly paid less than their male coworkers across the world. Landlords and police frequently utilise sexual assault and other types of violence against women to repress rebellion and destroy dissidents in the community. In comparison to women from upper castes, lower-caste women face greater barriers to reproductive and physical health care, education, and sustenance income.

Dynamics of gender with poverty

Women are at a substantially higher risk of poverty for a variety of reasons:

Even though they have the same qualifications and work the same hours, women are paid less than males.

Women are divided into low-paying jobs, and women's occupations are low-paying.

Teaching, child care, nursing, cleaning, and waitressing are examples of “pink-collar” employment that often pays less than positions in male-dominated sectors.

Unpaid caring takes up more time for women than it does for men. Women are more likely than males to look after children, the elderly, or handicapped members of their families.

Women are more likely to shoulder the burden of child-rearing expenses. When parents do not live together, women are more likely to shoulder the financial burden of raising children.

Pregnancy has a greater impact on women’s employment and educational chances than on men’s. The financial costs of pregnancy are higher for women than they are for males. Unplanned and mistimed pregnancies, in particular, can cause women to lose their education and prevent them from obtaining and maintaining stable jobs.

Domestic and sexual abuse can lead to poverty for women. Domestic or sexual violence can result in the loss of a career, declining health, and homelessness. Many Indian women, particularly those from low-income families, are victims of intimate partner violence perpetrated by current or previous spouses or love interests. Poverty and gender inequality are thus mutually reinforcing in terms of infringing on women’s legal rights.

Violation of child rights

Across a majority of nations, a proportion of the total children end up being denied their rights, especially the girl child. Millions of children throughout the world are being held back by a range of hurdles that prevent them from fulfilling their full potential, from a lack of access to school to security and safety to safe water and basic sanitation. The UN Convention on the Rights of the Child (UNCRC) has been ratified by over 190 nations, making it the most widely-adopted human rights convention in history. However, just because the treaty exists does not guarantee that children’s rights are always respected. The following are some infringements of child rights that take place across the world:

Child marriages

Girls’ rights are violated by child marriage, which often forces them to drop out of school, exposes them to abuse (sexual, physical, and emotional), and forces them into situations that their young minds and bodies are not ready for, such as childbirth. Although young boys get married off early as well, child marriage is a problem that disproportionately affects girls. The lockdown caused an increased surge in child marriages across regions in India, making it a major national concern.

Child labour

Millions of children in the world’s poorest countries work in dangerous and exploitative conditions that are harmful to their health and growth. Sex trafficking, domestic slavery, harsh physical labour such as mining or farming, and factory labour are all types of child labour.

Lack of access to education

Every kid is entitled to an education, and learning is essential for growth. It’s also one of the most effective ways to break the cycle of poverty and ensure that children are given the skills

they need to achieve their full potential. Long distances to school, a shortage of adequate washrooms, local gender conventions, and early pregnancy are just some of the obstacles that many girls experience in getting an education.

Lack of access to clean water

Millions of people around the world do not have access to safe drinking water, and more than twice as many do not have access to proper sanitation, such as toilets. Millions of children's lives are jeopardised without these necessities. Water and sanitation-related infections are one of the top causes of death in children under the age of five. Every day, hundreds of children die from avoidable diseases brought on by contaminated water, sanitation, and hygiene.

Lack of access to healthcare

Every child has the right to high-quality healthcare, yet millions of children across the world die of preterm birth problems, pneumonia, birth asphyxia, diarrhoea, malaria etc. Many of these fatalities may have been avoided if people had better access to healthcare. Furthermore, pregnancy and delivery problems are the top cause of mortality for females under the age of 15. Gender stereotypes and inequality are the most prevalent hurdles to females enjoying their rights to healthcare, just as they are with education.

Child soldiers

Separated from their families, displaced from their homes, or living in conflict zones with restricted access to schooling makes children more vulnerable to recruitment by armed forces and groups. These children are subjected to the horrors of war, a situation that not only deprives them of their innocent childhood experiences but also has negative consequences on their mental and emotional development. Every kid has the right to be shielded from the effects of conflict.

Female Genital Mutilation

Operations involving partial or total removal of the female external genitalia or other harm to the female genital organs for non-medical reasons are termed Female Genital Mutilation (FGM). It's also a form of gender-based discrimination. The practice is common in many regions of the world, and it is usually supported by firmly rooted societal norms. FGM has been performed on millions of girls and women worldwide, with the average age of a girl undergoing the procedure being ten years old. Female Genital Mutilation is a breach of a girl's right to health, freedom from violence, life and bodily integrity, and protection against brutal, barbaric, and humiliating treatment.

Everyone has dignity and worth. Recognising and respecting people's human rights is one way we acknowledge and appreciate their intrinsic value. Human rights are a collection of ideas that deal with justice and equality. They value our autonomy in making decisions about our life and developing our human potential. They are about living without fear, harassment, or prejudice. Human rights are a collection of fundamental rights that people all around the globe have decided are necessary. These include the right to life, the right to a fair trial, the right to be free of torture and other cruel and inhuman treatment, the right to freedom of expression, the right to religious freedom, and the rights to health, education, employment

and substantial quality of life.

These fundamental rights apply to everyone regardless of gender, age, economic or social status and opinions. Human rights are universal and ubiquitous because of this. Tolerance, equality, and respect are values that can assist lessen societal conflict. Putting human rights ideals into practice can assist us in creating the society we desire. The way we think about and implement human rights principles has changed dramatically in recent decades. This has had several good outcomes: human rights education may empower individuals and provide answers to specific challenges. Human rights are fundamental to how individuals engage with one another at all levels of society, including the family, community, schools, employment, politics, and international relations. Thus, it is critical that everyone attempt to grasp what human rights are. It is simpler for people to support justice and equality in society when they have a greater understanding of human rights.

Unit –II

Unit II: Human Rights in India: Development of Human Rights in India – Constituent Assembly and Indian Constitution – Fundamental Rights and its Classification – Directive Principles of State Policy – Fundamental Duties.

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DEVELOPMENT OF HUMAN RIGHTS IN INDIA

Human Rights in Ancient Times

The concept of human right is not from western region. It is the crystallization of the values which are common for all the mankind. The United Declaration of Human Rights (1948) did not come from the leaved suddenly but it's a milestone on the path on which the concept of human right is already travelling for centuries. In fact, the language of human right is the product of European countries but the concept of human rights is as old as the Indian culture. The humans expressed their concern towards human rights and fundamental freedom for all since the Vedic age.

In ancient India, the trace of the concept of human rights can be paved back from the Vedas period of the fifteen century B.C. There are wide range of stories, pronouncements found which showed the way to the concept of human rights. In Vedas, human right is signified with the concept of equality. The Charter of equality of all as defined in the Vedas in the following words-No one is superior inferior all should strive for the interest of all and should progress collectively. Kautilya beautifully sum up the concept of welfare state by saying that the happiness of the state lies in the happiness of his subjects. Under the period, the civil and legal rights first formulated by Manu but also added a number of economic rights. From the fact and stories, it is truly revealed that the society under Vedic period was well stimulated and organized and committed towards human right. In fact, the importance of human rights was well supported by Jainism, Buddhism and other minority religious group. No discussion of human rights and their roots in the ancient period is left without giving the reference of Ashoka. Ashoka inscribes, "All men are my children and just desire for my children that they may enjoy every kind of prosperity and happiness with in this world and in the next, as also as I desire the same for all men". In fact, the king Ashoka worked day and night for the protection of human rights. It's unfortunate that the decline of human rights was witnessed with the decline of Mauryan Empire.

Human Rights in Medieval Times

As medieval period signifies the Muslim era in India. In the pre-Mughal period the series of social, cultural, political and religious rights were existed but with the advent of Mughal, the Hindus were stressed badly. The concept of human rights got lost in the dark. But with the entry of Akbar's (1526-1605) period, once again great regard given to the social, religious and political

rights. In his religious policy, Din-E-Ilahi (divine religion), he tried to preach the idea of secularism and religious tolerance. Similarly, Various religious movements like Bhakti (Hindu) and Sufi (Islamic) made remarkable contribution to the emergence of human rights which at times suppressed by the other Mughal Empires like Aurangzeb, Babar, Humayun etc.

Human Rights in Modern India

This period starts from the advent of British Empire. The process of Indian administration started by the Britishers with the introduction of Regulating Act in the year 1773. Under it, Indian were suppressed by the Britishers completely in context to social, economic, political & religious rights in all the sphere of life. They were told that they did not deserve any rights. Basic rights such as rights to life & livelihood, right to freedom, right to expression, right to equality, right to preach etc. were denied to them. In such a atmosphere, the Indian leaders & people feel that their rights had been lost in the hands of the colonial rule, so they thought of diverting back to fight for their rights. Perhaps the first explicit demand for fundamentals rights appeared in the Constitution of India Bill 1895. The Bill guaranteed every Indian the right to expression, right to equality before law, right to property, right to personal liberty, right to education etc. A series of resolution were passed between 1917 & 1919 for demanding civil rights & equality. Another major development was drafted by “Mrs. Besant’s Common wealth of 1925.” The Bill contained a list of seven fundamental rights –

- (i) Liberty of person.
- (ii) Freedom of conscience & free profession & practice of religion.
- (iii) Free expression of opinion.
- (iv) Free elementary education.
- (v) Use of roads, public places, courts of justice & the like.
- (vi) Equality before the Law, irrespective of consideration of nationality.
- (vii) Equality of the sexes.

The resolution was passed in 1927 which came into effect in May 1928, Motilal Nehru as its Chairman. It is known as Nehru Report which declared that its first concern of Indians was “to secure the fundamental rights that had been denied to them.” Another achievement came in context to fundamental right was the Karachi resolution adopted by the congress session held in March 1931. The decade of 1940’s was generally marked by the emergence of fundamental rights by the increased activities related to in by UN Assembly. The further stage of development of fundamental rights in Indian context was the “Sapra Committee Report” published at the end of 1945. So, after Independence, time to time various laws made, suggestions came from the various committees to enlarge the concept of fundamental rights by covering the entire human race.

CONSTITUENT ASSEMBLY OF INDIA

The Constituent Assembly of India was elected with the objective of forming the Constitution of the country. M N Roy, a supporter of radical democracy and pioneer of the Communist

movement in India, is accredited with the idea for a Constituent Assembly. He proposed it in December 1934.

It was a unicameral body that had 389 elected members which were reduced to 299 after the partition of India to form Pakistan was finalized. The Assembly met for the first time in New Delhi on 9 December 1946, and its last session was held on 24 January 1950.

Background of the Constituent Assembly

- ❖ The following points lists the trail of the development of the constituent assembly of India:
- ❖ In 1934, M N Roy was the first to propose the idea of a constituent assembly. The Indian National Congress made it one of their official demands in 1935.
- ❖ The INC's Lucknow session held on the 16th of April 1936 was presided by Pt. Jawahar Lal Nehru where the official demand for the establishment of the Constituent Assembly was raised.
- ❖ They rejected the proposed idea in the Government of India Act, 1935 as it imposed a Constitution that was not accepted by Indians.
- ❖ It was then when C. Rajagopalachari demanded the setting up of a Constituent Assembly on 15 November 1939 which would be based on adult franchise
- ❖ This demand was accepted by the British in the August Offer of 1940.
- ❖ The elections for the formation of the Assembly were held as directed by the Cabinet Mission plan of 1946
- ❖ These elections were indirect in nature as the members of this assembly were elected by the members of the provincial assemblies. They were elected by the method of a single transferable vote of proportional representation.

Composition and Members of the Constituent Assembly of India

Initially, the number of members was 389. However, once the India-Pakistan partition was officially announced, some of the members of the Assembly left for Pakistan and making the number come down to 299. Out of these 299 members, 229 were from the British provinces and 70 were nominations from the princely states.

- ❖ Dr Sachchidananda Sinha was the first chairman of the Constituent Assembly, put up temporarily.
- ❖ Later, Dr Rajendra Prasad was the first elected President of the Assembly while Harendra Coomar Mookerjee became the first Vice President. BN Rau was the constitutional advisor.

Committees of Constituent Assembly of India and their Chairman

The Indian constitution is the lengthiest written constitution in the world, a fitting feat for one of the biggest democracies in the world. For its smoother and more effective functions, the

members were divided into several committees. The table below lists the several committees of the Constituent Assembly along with their chairmen;

Drafting Committee	Dr. B R Ambedkar
Union Constitution Committee	Jawaharlal Nehru
Union Powers Committee	Jawaharlal Nehru
States Committee	Jawaharlal Nehru
Steering Committee	Dr Rajendra Prasad
Rules of Procedure Committee	Dr Rajendra Prasad
Provincial Constitution Committee	Sardar Vallabhbhai Patel
Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas:	Fundamental Rights Sub-Committee: Acharya Kripalani • Minorities Sub-Committee: H C Mookerjee • Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee: A V Thakkar • North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub Committee: Gopinath Bardoloi

Facts about the Constitution of India

The Constitution of India was an interesting draft. There are some facts about it listed below.

- ❖ It took over 2 years, 11 months and 18 days to frame the Constitution
- ❖ The original drafts of the Constitution were handwritten, not typed or printed. They are currently kept in a helium-filled case within the library of the Parliament as it is an invaluable art effect of our history.
- ❖ Prem Bihari Narain Raizada was the calligraphist who had written the unique copies that defined the Structure of India.
- ❖ The Constitution of India was written in English and Hindi originally.
- ❖ The Constitution of India has a lot of elements that have been borrowed from constitutions of countries all across the globe, like Britain, Ireland, Japan, the USA, South Africa, Germany, Australia, and Canada.
- ❖ The basic structure of the Indian Constitution borrows from the Government of India Act, 1935 drafted by the British Government.
- ❖ It is the world's longest Constitution.
- ❖ The Constitution is not completely federal or unitary, it is more of a federal System with Unitary Features
- ❖ The country follows a bicameral Parliamentary form of government.

Constituent Assembly

The idea of a constituent assembly was put forward for the first time by MN Roy. In 1935, the Indian National Congress (INC), for the first time, officially called for a constituent assembly to frame a constitution for India. In 1938, J Nehru made this emphatic statement regarding the constitution- 'The constitution of free India must be framed, without outside interference, by a constituent assembly elected on the basis of adult franchise'

The demand for a constituent assembly was accepted for the first time by the British through their 'August offer' of 1940. Eventually, a constituent assembly was established under the provisions of the Cabinet Mission plan.

Composition of the Council

It was constituted in 1946

Some of the important aspects related to this are:

- ❖ Total strength of the assembly: 389
- ❖ 296 seats for British India and 93 seats to princely states
- ❖ 292 seats allocated for British India were to be from eleven governor's provinces and four from Chief commissioner's provinces
- ❖ Seats were allocated based in proportion to their respective population.
- ❖ Seats allocated to each British province were to be decided among the three principal communities- Muslims, Sikhs and general
- ❖ Representatives of each communities were to be elected by members of that community in the provincial legislative assembly and voting was to be by the method of proportional representation by means of single transferrable vote
- ❖ Representatives of princely states were to be nominated by head of these princely states.

Remember: Some observations regarding the composition:

- ❖ Partly elected and partly nominated
- ❖ Indirect election by provincial assemblies who themselves were elected on a limited franchise
- ❖ Though indirect mode of election, it included representatives from all sections of the society.

Working of the constituent assembly

- ❖ First meeting was held on December 9, 1946
- ❖ Muslim league did not participate in the first meeting
- ❖ Temporary president in the first meeting: Dr Sachchidanand Sinha
- ❖ After elections were held- Dr Rajendra Prasad and HC Mukherjee were elected as the President and Vice-President of the Assembly respectively.
- ❖ Sir BN Rau was appointed as the constitutional advisor of the assembly

- ❖ Once the Mountbatten plan was passed even members of Muslim league who were part of Indian territory participated in the proceedings of the council
- ❖ Members of princely states who had stayed away from the proceedings initially also participated. Constituent assembly held 11 sessions over two years, 11 months and 18 days
- ❖ Last session of the constituent assembly was held on January 24, 1950.

Objectives resolution

- ❖ It was moved by Nehru in December 1946
- ❖ It laid down the fundamentals and philosophy of the constitutional structure
- ❖ The resolution highlighted the following objectives:
- ❖ Free India will be nothing but a republic
- ❖ The ideal of social, political and economic democracy would be guaranteed to all people
- ❖ The republic would grant Fundamental rights
- ❖ The state would safeguard the rights of the minorities and backward classes

Constituent assembly acted as the temporary legislature until a new one was to be constituted. Some of the functions it performed at this stage were:

Ratification of India's membership of the commonwealth

- ❖ It adopted the national flag
- ❖ It adopted the national anthem
- ❖ Adoption of National song
- ❖ Electing Dr Rajendra Prasad as the first President of India

Committees of the constituent assembly

Several committees were constituted to perform the various tasks associated with framing of the constitution. Some of the major and minor constituent assembly committees are given below:

Major committees

Union Powers committee: presided by J Nehru

Union Constitution committee: president by j Nehru

Provincial constitution committee: Presided by S Patel

Drafting committee: president by Dr BR Ambedkar

Advisory committee on Fundamental Rights, minorities and Tribal and excluded areas- Presided by S Patel. It had following sub-committees:

FR sub-committee: JB Kripalani

Minorities sub-committee: HC Mukherjee

North-East frontier Tribal Areas and Assam excluded and partially excluded areas sub-committee- Gopinath Bardoloi

Excluded and partially excluded areas sub-committee: AV Thakkar

Rule procedure committee: Dr Rajendra Prasad

States committee for negotiating with states: J Nehru

Steering committee: Dr Rajendra Prasad

Minor committees

- ❖ Committee on the functions of the constituent Assembly: GV Mavalankar
- ❖ Order of Business committee: Dr KM Munshi
- ❖ House committee: B Pattabhi Sitaramayya
- ❖ Ad-hoc committee on the National flag: Dr Rajendra Prasad
- ❖ Special committee to examine the draft constitution: Alladi Krishnaswami Ayyar

Drafting committee:

- ❖ It was considered to be the most important committee of the constituent assembly
- ❖ It was chaired by Dr BR Ambedkar
- ❖ He played a pivotal role in drafting the constitution and also in passage of the constitution in the assembly
- ❖ The committee published the first draft of the constitution in February 1948. The second draft was published after incorporating changes suggested by the public in October 1948.

Enactment and enforcement of the constitution

- ❖ Final draft of the constitution was introduced in the assembly in 1948
- ❖ After subsequent readings, the constituent assembly adopted, enacted and gave to themselves the constitution on November 26, 1949
- ❖ Some provisions of the constitution came into force on the above mentioned date. However, most provisions came into force on January 26th, 1950. This date is referred to in the constitution as the 'date of its commencement'. This day is celebrated as 'Republic day' every year
- ❖ This day was chosen by the constitution-makers to pay homage to the 'Purna Swaraj' which started on January 26th, 1930.

Criticism of the constituent assembly

Not a representative body since members were not directly elected

1. It was not a sovereign body since it was established based on British order
2. It consumed unduly long time to make the constitution
3. It was dominated predominantly by congress party.
4. It was dominated by lawyer-politician to a greater degree
5. It was dominated by Hindus predominantly

However, the above criticisms do not hold true picture of the constituent assembly. Though it was indirectly elected, the constituent assembly consisted of people belonging from all section of the Indian society. The time-consuming process considering the challenge of enacting a constitution for a country like India was reasonable. The secular provisions in the constitution

and the sustainability of the constitution definitively prove that the constitution did not give any overt or covert preference to the dominant religion of the land.

FUNDAMENTAL RIGHTS

The Fundamental Rights are defined as the basic human rights of all citizens. These rights, defined in Part III of the Constitution, applied irrespective of race, place of birth, religion, caste, creed, or gender. They are enforceable by the courts, subject to specific restrictions. The Directive Principles of State Policy are guidelines for the framing of laws by the government. These provisions, set out in Part IV of the Constitution, are not enforceable by the courts, but the principles on which they are based are fundamental guidelines for governance that the State is expected to apply in framing policies and passing laws.

The Fundamental Rights, embodied in Part III of the Constitution, guarantee certain rights to the people and these rights have been considered fundamental for the governance of the country. These rights prevent the State from the encroachment of individual liberty. A group of seven fundamental rights were originally provided by the Constitution. These rights were; right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights, right to property and right to constitutional remedies. However, the right to property was removed from Part III of the Constitution by the 44th Amendment in 1978. The purpose of the Fundamental Rights is to preserve individual liberty and democratic principles based on equality of all members of society. Dr Ambedkar said that the responsibility of the legislature is not just to provide fundamental rights but also and rather more importantly, to safeguard them.

Meaning of the Fundamental Rights

In every Democratic State, all the citizens have got some rights for the development of life. These rights are given to them by the constitution of that State. They have the force of law behind them. No government can take them away. And if, any government dares to do so, citizens can go to the court to get justice. Only such kind of justifiable rights are called 'Fundamental Rights'. A man's fullest development is not possible without these rights.

Importance of the Fundamental Rights:

The fundamental rights are of great importance as stated below:

1. These rights are necessary for the development of man's life. They assure him of his physical, mental and moral development.
2. Without these rights, we cannot make our life happy and prosperous.
3. The importance of these rights lies in the fact that they have been guaranteed by the Constitution of India. If any government tries to snatch them away, we can go to the court to get justice.

Classification of Fundamental Rights

- The Fundamental Rights are enshrined in Part III of the Constitution (Articles 12-35).
- Part III of the Constitution is described as the Magna Carta of India.
- 'Magna Carta', the Charter of Rights issued by King John of England in 1215 was the first written document relating to the Fundamental Rights of citizens.

The Fundamental Rights: The Constitution of India provides for six Fundamental Rights:

- ❖ Right to equality (Articles 14–18)
 - ❖ Right to freedom (Articles 19–22)
 - ❖ Right against exploitation (Articles 23–24)
 - ❖ Right to freedom of religion (Articles 25–28)
 - ❖ Cultural and educational rights (Articles 29–30)
 - ❖ Right to constitutional remedies (Article 32)
-
- Originally the constitution also included Right to property (Article 31). However, it was deleted from the list of Fundamental Rights by the 44th Amendment Act, 1978.
 - It is made a legal right under Article 300-A in Part XII of the Constitution.
 - Provision for Laws Violating Fundamental Rights: Article 13 of the Indian constitution declares that all laws that are inconsistent with or in derogation of any of the fundamental rights shall be void.
 - This power has been conferred on the Supreme Court (Article 32) and the high courts (Article 226). Further, the article declares that a constitutional amendment cannot be challenged (as it is not a law).

Right to Equality (Article 14, 15, 16, 17 and 18): Equality Before Law: Article 14 says that no person shall be denied treatment of equality before the law or the equal protection of the laws within the territory of India.

- The right is extended to all persons whether citizens or foreigners, statutory corporations, companies, registered societies or any other type of legal person.
- Exceptions: As per article 361, the President of India or Governor of states is not answerable to any court for the exercise of their powers/duties and no civil or criminal proceedings can occur or continue against them in any court during their term of office.
- As per article 361-A, no civil or court proceedings can occur for a person for publishing any substantially true report of either House of the Parliament and State Legislature.
- No member of Parliament (article 105) and State Legislature (article 194) shall be liable to any court proceedings in respect of anything said or any vote given by him in Parliament or any committee.
- The foreign sovereigns (rulers), ambassadors and diplomats enjoy immunity from criminal and civil proceedings.

Prohibition of Discrimination: Article 15 provides that no citizen shall be discriminated on grounds only of religion, race, caste, sex or place of birth.

- **Exception:** Certain provisions can be made for the women, children, citizens from any socially or educationally backward class for their upliftment (such as reservation and access to free education).

➤

Equality of Opportunity in Public Employment: Article 16 of the Indian constitution provides for equality of opportunity for all citizens in matters of employment or appointment to any public office.

Exceptions: There are provisions for reservation in appointments or posts for any backward class that is not adequately represented in the state services. Also, an incumbent of a religious or denominational institution may belong to the particular religion or denomination.

Abolition of Untouchability: Article 17 abolishes ‘untouchability’ and forbids its practice in any form. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law.

- A person convicted of the offence of ‘untouchability’ is disqualified for election to the Parliament or state legislature. The acts of offences include:
- Preaching untouchability directly or indirectly.
- Preventing any person from entering any shop, hotel, public place of worship and place of public entertainment.
- Refusing to admit persons in hospitals, educational institutions or hostels established for public benefit.
- Justifying untouchability on traditional, religious, philosophical or other grounds.
- Insulting a person belonging to scheduled caste on the ground of untouchability.

Abolition of Titles: Article 18 of the constitution of India abolishes titles and makes four provisions in that regard:

- It prohibits the state from conferring any title on any citizen or a foreigner (except a military or academic distinction).
- It prohibits a citizen of India from accepting any title from any foreign state.
- A foreigner holding any office of profit or trust under the state cannot accept any title from any foreign state without the consent of the President of India.
- No citizen or foreigner holding any office of profit or trust within the territory of India can accept any present, emolument or office from or under any foreign State without the consent of the president.

Right to Freedom (Article 19, 20, 21 and 22):

Protection of 6 Rights: Article 19 guarantees to all citizens the six rights of freedom including:

Right to freedom of speech and expression.

Expressing one's own views, opinions, belief and convictions freely by word of mouth, writing, printing, picturing or in any other manner.

Right to assemble peaceably and without arms.

- Includes the right to hold public meetings, demonstrations and take out processions which can be exercised only on public land.
- It does not protect violent, disorderly and riotous assemblies or strike.

Right to form associations or unions or co-operative societies.

It includes the right to form (and not to form) political parties, companies, partnership firms, societies, clubs, organizations, trade unions or anybody of persons.

Right to move freely throughout the territory of India.

The freedom of movement has two dimensions, viz, internal (right to move inside the country) (article 19) and external (right to move out of the country and right to come back to the country) (article 21).

Right to reside and settle in any part of the territory of India.

The right of outsiders to reside and settle in tribal areas is restricted to protect the distinctive culture and customs of scheduled tribes and to safeguard their traditional vocation and properties against exploitation.

Right to practice any profession or to carry on any occupation, trade or business.

It doesn't include the right to carry on a profession that is immoral (trafficking in women or children) or dangerous (harmful drugs or explosives, etc.).

- **Protection in Respect of Conviction for Offences: Article 20** grants protection against arbitrary and excessive punishment to an accused person, whether citizen or foreigner or legal person like a company or a corporation. It provides that:
- No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act or subjected to a penalty greater than that prescribed by the law.
- No person shall be prosecuted and punished for the same offence more than once.
- No person accused of any offence shall be compelled to be a witness against himself.

Protection of Life and Personal Liberty: Article 21 declares that no person shall be deprived of his **life or personal liberty** except according to procedure established by law. This right is available to both citizens and non-citizens.

- The right to life is not merely confined to animal existence or survival but also includes the right to live with human dignity and all those aspects of life which go to make a man's life meaningful, complete and worth living.
-

Right to Education: Article 21 (A) declares that the State shall provide free and compulsory education to all children of the age of six to fourteen years.

- This provision makes only elementary education a Fundamental Right and not higher or professional education.
- This provision was added by the **86th Constitutional Amendment Act of 2002**.
- Before the 86th amendment, the Constitution contained a provision for free and compulsory education for children under **Article 45 in Part IV** of the constitution.

Protection against Arrest and Detention: Article 22 grants protection to persons who are arrested or detained.

- Detention is of two types, namely, **punitive** (punishment after trial and conviction) and **preventive** (punishment without trial and conviction).
- The first part of Article 22 deals with the ordinary law and includes:
 - Right to be informed of the grounds of arrest.
 - Right to consult and be defended by a legal practitioner.
 - Right to be produced before a magistrate within 24 hours, excluding the journey time.
 - Right to be released after 24 hours unless the magistrate authorises further detention.
- The second part of Article 22 deals with preventive detention law. Protection under this article is available to both citizens as well as aliens and includes the following:
 - The detention of a person **cannot exceed three months** unless an advisory board (judges of high court) reports sufficient cause for extended detention.
 - The grounds of detention should be communicated to the detenu.
 - The detenu should be afforded an opportunity to make a representation against the detention order.

DIRECTIVE PRINCIPLES OF STATE POLICY

The Directive Principle of State Policy has been derived from the Irish Constitution and makers of our Indian Constitution have included these principles in Part IV of the constitution from Article 36 to Article 51. These principles were extremely important in the governance of the country which exemplify the hopes and aspirations of the people.

The concept behind the Directive Principles of State Policy is to create a 'Welfare State'. In other words, the motive behind creating the directive policy is not just establishing political democracy rather establishing social and economic democracy in the state. The state must follow these directive principles both in the matter of administration as well as while formulating laws because the Directive Principles aim to create a state where social and economic democracy might flourish. Read the article below to understand the meaning of directive policy clearly.

Meaning of Directive Principle of State Policy

Directive Principles are certain rules, specifically aiming at socio-economic justice, which according to the makers of the Indian Constitution should aim for.

According to Dr. B.R.Ambedkar, the Directive Principles is determined as the "Novel Feature" of the constitution. They aim to provide general instructions, guidelines, or directions to the state. Directive Principle symbolizes the aspiration of people, objectives, and ideals which the Union and State Government must be aware of while formulating laws and policies.

According to the Sanskrit scholar L.M. Singhvi, the Directive Principles of State Policy are stimulating provisions of the Indian Constitution. They exemplify the Philosophy of social justice incorporated in the Indian Constitution. Although Directive Principles are not legally bound by the court, they, however, play a crucial role in the governance of a country. They formulate a code of conduct for the legislative, administrators, and executives of India to implement these responsibilities in compliance with these ideals.

Features of Directive Principles of State Policy

Before jumping to the features of the DPSPs, we should go through the concerned Article mentioned in the Constitution which states down the characteristics of the DPSPs.

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

Thus, the following points signify the features of directive principles of State Policy:

DPSP are Non - Justiciable; Supported By Public Opinion: The Directive Principles are non - justiciable. Legal sanctions do not support Directive Principles. However, these are supported by public opinion which in reality is also the legal sanction behind the law.

DPSP Provides Welfare of People: The Directive Principles strive to enhance the welfare of the people by attaining a social order in which social, economical, and political conditions are informed in all institutions of life as per Article (38) of the Indian Constitution.

DSPS Act as a Yardstick for Measuring Governments Worth: Directive Principles act as a yardstick through which the people should measure the worth of the government. A government that does not implement the Directive Principles can be rejected by the people in favour of the Government by another political party that is expected to provide the required importance and value to the task of attaining Directive Principles.

DSPS are Source of Continuity in Policies: Directive principles are like a source of continuity in policies, in which the Government changes after a few years and every new Government makes different policies and laws of the country. The presence of such guidelines is significant because it ensures that every Government will follow the set of rules in the form of DSPS while formulating its laws.

DSPS are Supplementary To Fundamental Rights: DSPS can be considered as the positive directions for the state which helps in attaining the social and economical dimensions of democracy. DSPS are supplementary to Fundamental rights which grants political rights and other freedom. Directive Principles and Fundamental rights are nothing without each other as one provides social and economical rights whereas the other provides political rights.

DSPS Constitute Policy of Nation: Directive Principle constitutes a policy of the nation. These principles emulate the ideas and views which were there in the mind of drafters while formulating the constitution. This reflects the philosophy behind making the constitution hence providing useful information to the court in interpreting and existing confusion and in turning up with better laws and policies.

Types and Provisions of DPSPs

Though the Constitution of India does not make any kind of classification of the DPSPs, we can classify them as per the classification given by Prof. M.P. Sharma:

Socialistic Principles

These are the principles which are said to be focused on the establishment of the egalitarian society.

Article 38

State to secure a social order for the promotion of welfare of the people

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life

(2) The State shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations. (inserted by the 44th Constitutional Amendment Act 1978)

Article 39

The State shall, in particular, direct its policy towards securing

- a) That the citizens, men and women equally, have the right to an adequate means to livelihood;
- b) That the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- c) That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- d) That there is equal pay for equal work for both men and women;
- e) That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- f) That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment (added by the 42nd Amendment 1976).

Article 41

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

Article 42

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

Article 43

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

Article 43A

The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry (added by the 42nd Constitution Amendment Act 1976).

Article 43(B)

The State to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies (added by the 97th Constitution Amendment Act 2011).

Gandhian Principles

The principles which are said to be based on the ideology of Gandhi, are known as Gandhian Principles.

Article 40

The state provides for the establishment of Panchayat Raj Institutions and endows them with such powers and authority as may be necessary to enable them to function as units of self government.

Article 43

The State shall endeavour to promote cottage industries on an individual or co operative basis in rural areas

Article 46

The state provides for promotion of educational and economic interests of SCs, STs and other weaker sections and protects them from social injustice and all forms of exploitation.

Article 47

imposes a primary duty on the state to raise the level of nutrition and standard of living, to improve public health and to prohibit consumption of intoxicating drinks and drugs injurious for health except for medicinal purposes.

Article 48

directs the state to provide for the organization of agriculture and animal husbandry and prohibition of cow slaughter.

Liberal Principles:

The principles which are said to be focused on providing equality, freedom as well as liberty in the Governance are said to be known as liberal principles.

Article 39

(A)directs the state to provide to all equal access to justice and free legal aid, by suitable legislations or schemes or in any other way, to ensure that the opportunities for securing justice are not denied to any citizen by any reason of economic or other liabilities (added by the 42nd Constitution Amendment Act 1976).

Article 44 directs the state to provide for establishment of a uniform civil code for the whole country.

Article 45 This article originally provided for free and compulsory education for all children up to the age of 14. The 86th Constitutional Amendment Act 2002 made education a Fundamental Right for children between ages 6 – 14 years, as a consequence of which article 45 was substituted by a new article providing for early child care and education to children.

Article 48 A The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country (added by the 42nd Constitution Amendment Act 1976).

Article 49 It directs the state to provide for protection of National monuments.

Article 50 It directs the state to take steps to separate judiciary from the executive.

Article 51

- a) Promotion of international peace and Security
- b) Just and honourable relations between nations
- c) Respect for international law and treaty obligations
- d) Settlement of international disputes.
- e) International treaties do not automatically become a part of the National Law.

Significance of Directive Principles of State Policy

- ❖ The Directive Principles of State Policy are some instructions to the State for attaining socio-economic development. Directive Principles of State Policy are positive.
- ❖ These principles increase the power and nature of the state. Directive Principles aim to establish a welfare state by securing social and economic justice. These principles rely on social thinking.
- ❖ Directive principles are essential for the socio-economic development of a country because welfare and justice are dual aims of our constitution.
- ❖ Directive principles are significant in the governance of a country. The State should follow these principles for the progress of the country.
- ❖ Directive principles aim to reflect public opinion and their determination. They are incorporated in the constitution to meet the aspiration of the people.
- ❖ Directive Principles aim at establishing a welfare state by securing social and economic justice. These principles rely on social thinking.

Purpose of Directive Principles of State Policy

The purpose of the Directive Principle of State Policy is “Welfare of State”. The Directive Principles are the standards that the Union and State Government must keep in mind while formulating policies or pass a law. They frame certain social, economic, or political principles, suitable to unusual conditions prevailing in India.

Difference between Fundamental Principle of State Policy and Directive Principle of State Policy

Fundamental principles are justiciable whereas Directive principles of state policy are non - justiciable. It means a person cannot appeal to the court if his/her fundamental rights are violated

whereas people cannot appeal to the court if the Government does not implement the directive principles.

Fundamental rights exhibit liberal political democratic policy in India. However, Directive principles make a country a welfare state.

Fundamental Rights are said to be negative because they put restraints on the state. On the other hand, Directive principles are affirmative. They announce the duty of the state to attain certain social and economic objectives.

Fundamental rights safeguard the interest of the individual whereas the Directive Principles of State Policy seek to enhance social economic equality and specifically provide safeguard to weaker and vulnerable sections of society.

Directive Principles of State Policy Enforceability

The enforceability of Directive Principles of State Policy is a significant question in the minds of Indian citizens. The answer to this is that principles are not enforceable as it is a moral obligation upon the State and not a legal obligation. The State is not legally liable if it does not choose to follow DPSP. The same applies to fundamental duties. However, fundamental rights are enforceable. Article 37 of the Constitution states that Part IV of the Constitution shall not be enforceable by any court of law. However, it is important to note that even though the DPSP is not legal by the court, it is justified by itself.

Directive Principles of State Policy are considered to be important in the governance of a country. Dr. B.R. Ambedkar referred to these principles as novel features because of their non-enforceable. It is significant to note that despite being non-enforceable in nature it is not useless as it provides guidelines to attain the concept of welfare of the state.

FUNDAMENTAL DUTIES

As an Indian citizen, certain rights and duties are provided to us. The duty of every citizen is to abide by the laws and perform his/her legal obligations. A person should always be aware of his/her fundamental duties. 11 fundamental duties are laid down by the Indian Constitution.

Origin and scope of fundamental duties

Origin

On the recommendations of the Swaran Singh Committee, the fundamental duties were added by the 42nd Amendment, 1976 in our Indian Constitution. The fundamental duties were originally 10 in numbers but in 2002, the 86th Amendment increased its number to 11. The 11th duty made it compulsory for each and every parent and guardian to provide the educational opportunities to their child who is more than 6 years but less than 14 years of age. These duties are borrowed from the Constitution of Japan.

Scope

Neither there is a direct provision in the Constitution for the enforcement of these duties nor there hardly any legal sanction in order to prevent violation of these duties. These duties are obligatory in nature. The following facts provide for the importance of fundamental duties:

A person should respect the fundamental rights and duties equally because in any case, if the court comes to know that a person who wants his/her rights to be enforced is careless about his/her duties then the court will not be lenient in his/her case.

Any ambiguous statute can be interpreted with the help of fundamental duties.

The court can consider the law reasonable if it gives effect to any of the fundamental duties. In this way, the court can save such law from being declared as unconstitutional.

Fundamental Duties taken from

The fundamental duties are taken from the USSR (Russia) constitution. The addition of fundamental duties in our constitution has brought our constitution aligned with the Article 29(1) of the Universal Declaration of Human Rights and with various provisions of the modern constitution of other countries.

Fundamental Duties

Only one Article that is Article -51A is there in Part-IV-A of the Indian Constitution that deals with fundamental duties. It was added to the Constitution by the 42nd Amendment Act, 1976. For the first time, a code of 11 fundamental duties was provided to the citizens of India. Article 51-A states that it is the duty of every citizen of India:

1. To respect the Constitution, its ideals and institutions, the National Flag and National Anthem—Ideals like liberty, justice, equality, fraternity and institution like executive, the legislature, and the judiciary must be respected by all the citizens of the country. No person should undergo any such practice which violates the spirit of the Constitution and should maintain its dignity. If any person shows disrespect to the National Anthem or to the National Flag then it will be a failure as a citizen of a sovereign nation.
2. The noble ideas that inspire the national struggle to gain independence, one should cherish them— Every citizen must admire and appreciate the noble ideas that inspired the struggle of independence. These ideas focus on making a just society, a united nation with freedom, equality, non-violence, brotherhood, and world peace. A citizen must remain committed to these ideas.
3. One should protect and uphold the sovereignty, unity and integrity of India— This is one of the basic duties that every citizen of India should perform. A united nation is not possible if the unity of the country is jeopardized. Sovereignty lies with the people. Article 19(2) of the Indian Constitution put reasonable restrictions on the freedom of speech and expression in order to safeguard the interest and integrity of India.
4. One should respect the country and render national service when called upon—Every citizen should defend the country against the enemies. All the citizens apart from those

who belong to the army, navy etc should be ready to take up arms in order to protect themselves and the nation whenever the need arises.

5. One should promote harmony as well as the spirit of common brotherhood amongst the citizens of India, transcending religious, linguistic, regional or sectional diversities and to renounce practices that are derogatory to the dignity of the women– Presence of one flag and single citizenship not only reflects the spirit of brotherhood but also directs the citizen to leave behind all the differences and focus on collective activity in all spheres.
6. One should value and preserve the heritage of our composite culture– India’s culture is one of the richest heritages of the earth. So, it is compulsory for every citizen to protect the heritage and pass it on to future generations.
7. One should protect and improve the natural environment including forests, lakes, rivers, wildlife and a citizen should have compassion for living creatures– Under Article 48A this duty is provided as a constitutional provision also. The natural environment is very important and valuable for each and every country. So each and every citizen should make efforts in order to protect it.
8. One should not only develop the scientific temperament and humanism but also the spirit of inquiry and reform– For his/her own development it is necessary for a person to learn from the experiences of others and develop in this fast-changing environment. So one should always try to have a scientific temperament in order to adjust with these changes.
9. One should always safeguard public property and abjure– Due to unnecessary cases of violence that occurs in a country which preach for non-violence, a lot of harm has already been done to the public property. So, it is the duty of every citizen to protect the public property.
10. One should always strive towards excellence in all spheres of life and also for the collective activity so that the nation continues with its endeavour and achievements– In order to ensure that our country rises to a higher level of achievement, it is the basic duty of every citizen to do the work that is given to him/her with excellence. This will definitely lead the country towards the highest possible level of excellence.
11. One should always provide the opportunity of education to his child or ward between the age of six to fourteen years– Free and compulsory education must be provided to the children who belong to 6 to 14 years of age and this has to be ensured by the parents or guardian of such child. This was provided by the 86th Constitutional Amendment Act, 2002.

The features of Fundamental Duties are as follows:

1. Both moral and civic duties have been laid down under the fundamental duties, like, “the Indian citizens should not only cherish the noble ideas that lead to the freedom struggle but they should also respect the Constitution, the National Flag and National Anthem”.
2. Fundamental rights can be applied to foreigners also but the fundamental duties are only restricted to the Indians citizens.

3. The fundamental duties are not enforceable in nature. No legal sanction can be enforced by the government in case of their violation.
4. These duties are also related to Hindu traditions or mythology like paying respect to the country or promoting the spirit of brotherhood.

Fundamental Duties and Indian constitution

The Constitution was adopted in the year 1949, but it did not contain the provisions for fundamental duties. The Parliament of India not only realised the need to insert fundamental duties in the Indian Constitution but it also felt that everyone should perform such duties. A new part, that is Part IVA, was inserted by the 42nd Amendment Act, 1976 which provides for several fundamental duties that need to be followed by the citizens of India.

These duties are considered as “directory” as these duties cannot be enforced through the writ of mandamus because they don’t cast any public duties. Fundamental duties are the basic reminder of our national goals and basic norms of political order. They inspire an individual to inculcate in himself/herself a sense of social responsibility. The Supreme Court said that the fundamental duties can be used to interpret any statute which is uncertain. These duties provide educational and psychological value to the citizens of India. These duties uphold the spirit of Democracy and patriotism.

In the case of Ramlila Maidan Incident, the court held that the word “fundamental” is used in two separate senses in our Indian Constitution. When this word is used for rights then it means that these rights are very essential and any law which will violate the fundamental rights will be declared as void. But when this word is used for the duties then it is used in a normative sense as it sets certain goals before the state which the state should try to achieve.

42nd Amendment 1976

The 42nd Amendment Act, 1976 was approved during the Emergency period. The Indian National Congress which was at that time headed by Indira Gandhi approved this amendment. This amendment was regarded as the most controversial amendment. The provisions that were provided by this amendment act came into force on different dates. Most of the provision came into force on 3 January while others came into force from 1 April 1977. This amendment is also known as “Mini-Constitution” or “Constitution of Indira” because wide changes were brought to the constitution. 11 Fundamental Duties were laid down by the 42nd Amendment.

86th Amendment 2002

Only a few constitutions in the world provide the guidelines stating the obligations and duties of the citizens. To govern the rights and the duties of its citizens, Canada and Britain lay significance on the Common Law and its judicial decision. It is said that one should be taught to

follow fundamental duties at a younger stage because if this will happen then it will not be important to list the duties in the Constitution as it will not affect its implementation.

The Unnikrishnan Judgement provided that all the citizens who are below the age of 14 years have a right to free and compulsory education. Due to an increasing public demand for education, the government worked towards making education a fundamental right. In 2002, an amendment was inserted in Article 51A. Article 51(k) was added after Article 51(j) which stated that it is a fundamental duty of every citizen who is a parent or a guardian to provide opportunities for free and compulsory education to a child who is between 6 years to 14 years of age.

In M.C Mehta (2) vs. Union of India [3] the Supreme Court held the following:

1. It is compulsory for all the educational institutions to organise a teaching lesson of at least one hour a week on the protection and improvement of the natural environment.
2. It is the duty of the Central Government under Article 51-A (g) to introduce this lesson in all the educational institutions.
3. The Central Government should also distribute books free of cost on the same subject in all the institutes.
4. To give rise to the consciousness among the people towards a clean environment, the government should organise 'keep the city clean' week at least once in a year.

Fundamental Duties committees

Swaran Singh Committee

The Chairperson of this committee was Sardar Swaran Singh who was given the responsibility to study the Indian Constitution during the National emergency. After declaring the emergency Indira Gandhi put the responsibility on this committee to study the Constitution and amend it keeping in mind the past experiences. Several changes were incorporated into the Constitution by the government based on the recommendations of the committee.

The need and necessity of fundamental duties was felt during the emergency period. So in 1976, a committee was set up who made the recommendation for the same. The recommendation was made for including a separate chapter in the Indian Constitution under the heading Fundamental Duties. Citizens will be aware of their duties while enjoying their fundamental rights. This suggestion was accepted by the government and a new article that is Article 51A was included in the Indian Constitution which had 10 fundamental duties in it earlier. The government also said that it was a mistake that was made by the original framers of the India Constitution to not to include the fundamental duties at that time. The committee suggested for 8 fundamental duties but the 42nd amendment had 10 duties. Out of all the recommendations, not every recommendation was accepted.

Some of the recommendations that were not accepted are:

1. In case of non-compliance with the fundamental duties, the Parliament can impose penalty or punishment.
2. In a court of law, such punishment or law won't be questioned.
3. Fundamental duties also include the duty to pay taxes which was rejected.

Justice Verma committee

In order to plan a strategy and methodology for working out a programme that was started worldwide for making the fundamental duties enforceable in every type of educational institution and to teach these duties in every school, Justice Verma Committee was established in 1998. The committee took this step because it was aware of the non-operationalization of the Fundamental duties. The committee found that the reason for non-operationalization was due to lack of strategy for its implementation rather than lack of concern.

The committee provided with the provisions like:

1. No person can disrespect the National flag, Constitution of India and the National Anthem under the Prevention of Insults to National Honour Act, 1971.
2. Various criminal laws have been enacted which provide punishment to the people who encourage enmity between people on the grounds of race, religion, language etc.
3. The Protection of Civil Rights Act (1955) provided for punishments in case of any offence related to caste and religion.
4. The imputations and assertions that are prejudicial to the nation's integrity and unity are considered as punishable offences under various sections of the Indian Penal Code, 1860.
5. In order to prevent a communal organisation to be declared as an unlawful association, the Unlawful Activities (Prevention) Act, 1967 was established.
6. If the members of the Parliament or the state legislature indulge in any corrupt practices like asking votes in the name of religion then they will be held liable under the Representation of the People Act, 1951.
7. The Wildlife (Protection) Act, 1972 protect and prohibit the trade in the case of rare and endangered animals.
8. The Forest (Conservation) Act, 1980 was implemented to make sure that Article 51A(g) was properly implemented.

Need for Fundamental Duties

Rights and duties are correlative. The fundamental duties serve as a constant reminder to every citizen while the Constitution specifically conferred on them certain fundamental rights. Certain basic norms of democratic conduct and democratic behaviour must be observed by the citizens. The then ruling party, Congress, claimed that what the framers of the Constitution failed to do is being done now. This omission was rectified by introducing a chapter on citizen's duties towards the nation. In India, people lay more emphasis on rights and not on duty.

This view was wrong. In this country, there has been a tradition of performance of one's duties even in partial disregard of one's rights and privileges. Since time immemorial emphasis was on individual's KARTAVYA which is the performance of one's duties towards society, his/her country and his/her parents. The Geeta and Ramayana also provide that people should perform their duties without caring for their rights.

Traditional duties have been given a constitutional sanction. If one clearly looks in the Constitution not only he/she will discover his/her rights but also the duties. A careful look at the Constitution will definitely solve the question of the people who claim that the Constitution only provides for the rights to the citizen and not the duties of the persons towards the society. The Fundamental Rights that are provided to all the citizens are present in the Preamble of the Indian Constitution like liberty of thought, expression, belief, faith and worship. These are not absolute rights as the state can put reasonable restrictions on them in the interest of society. The remaining Preamble put emphasis on the duties like justice, social, economic and political.

The government in order to create a strong foundation with a strong national character introduced fundamental duties. It not only lay emphasis on human dignity but also creates a feeling of harmony in the community. Our society can only be uplifted if each and every citizen focuses on bridging the gaps that have been created in the society, by performing their duties towards the society. Judicial reforms help in enforcing such duties from time to time because there is no provision in the Indian Constitution for their enforcement. If every person wants their fundamental rights to be realized then everyone should fulfill their duties.

The importance of Fundamental Duties

1. Fundamental duties act as a constant reminder that the citizens while enjoying their fundamental rights should not forget about their duties towards the nation.
2. These duties act as a warning signal for the people against any type of antisocial activities.
3. These duties give a chance to the people to have an active participation in the society rather than being a spectator.
4. These duties promote a sense of discipline and commitment towards the society.
5. The courts can use fundamental duties for determining constitutionality of law. If any law is challenged in court for its constitutional validity and if that law is providing force to any of the fundamental duties then that law will be held reasonable.
6. If the fundamental rights are enforced by a law then in case of its violation the Parliament can impose penalty or punishment for the same.

Unit-III

Unit III: Rights of Marginalized and other Disadvantaged People: Rights of Women – Rights of Children – Rights of Differently Abled – Rights of Elderly - Rights of Scheduled Castes – Rights of Scheduled Tribes – Rights of Minorities – – Rights of Prisoners – Rights of Persons Living with HIVAIDS – Rights of LGBT.

X - X

RIGHTS OF MARGINALIZED AND OTHER DISADVANTAGED PEOPLE

Introduction

Human Rights are the basic right which is being provided by every constitution of every State and every individual in this globe born with the inherent right of Human Right. They are most basic right which an individual can ask to have from its nation. They have never given away any kind of unfairness towards any individual or group of people or they haven't been any discrimination made on the basis of caste, sex, religion etc. with any individual under any nation. . They only sponsor the welfare and well-being of all persons with equal behaviour. However, the socio-economic, political and cultural diversities, prevailing in each state across the world, and politics of the nation states, take away the free effect of human rights to a certain number of people.

The major problem faced by every developing nation is that the large number of human sector falls under the poverty line. They are deprived of adequate access in the basic needs of life such as health, education, housing, food, security, employment, justice and equity which also include issues related to sustainable livelihood, social and political participation of the vulnerable groups exists as the major problem in the developing nations.

All social groups should have equal access to the services provided by the State and equal opportunity should be provided for their upward economic and social mobility. The government of every nation should also ensure that should not be any sort of discrimination against any section of our society. In India, certain social groups such as the SCs, STs, OBCs and Minorities have in the past been deprived and vulnerable for human rights. There are certain other groups which may be discriminated against and which suffer from handicaps and the groups include persons with disabilities, older persons, street children, beggars and victims of substance abuse. Our Constitution contains various provisions for the enlargement of such marginalized groups, for instance, Article 341 for SCs, Article 342 for STs, Article 340 for OBCs, Article 30 which provides the right to minorities to establish and administer educational institutions, and various other statutes. Their individual and collective growth, however, cannot be ensured without improving their surroundings and providing clean drinking water, toilets and educational opportunities.

The Constitution of India guaranteed to all the people of India the civil, political, economic, social, and cultural rights for their realization by all sections of the polity without any kind of discrimination. However, due to poverty, customary and cultural practices prevailing in the country, there have not much opportunity offered to various groups and which lead to deprive them of being treated equally as the other sections of the society. There are various disadvantaged groups of people such as women, children, Scheduled Castes, Scheduled

Tribes, Linguistic Minorities, Religious Minorities, Sexual Minorities etc. In order to expand their rights, the Constitution of India has provided a number of concessions to protect them from exploitation by other groups.

CONSTITUTIONAL RIGHTS TO WOMEN

1. Article 14: This article ensures equality before the law or the equal protection of the laws within the territory of India. This very important provision provides equal legal protection to women against any women-based crime.

2. Article 15: In this article, no one should create any sort of discrimination within the territory of India and as per article 15(3) the state has the authority to make any special provision for women.

3. Article 16: This article ensures equal employment opportunity to every citizen of India. There should not be any discrimination in respect of employment opportunity under the State on the ground of sex.

4. Article 21: This article deals with right to life has been expanded to include the right to Life with Dignity. This provision has been invoked to safeguard the rights of women such as right to divorce, to live a life free from violence and the right to safe abortions.

5. Article 39: Article 39(a) of directive principles of state policy ensures and directs a state to secure for men and women equality right of adequate means of livelihood and article 39(d) ensures equal pay for equal work for both men and women.

6. Article 42: Article 42 of constitution of India casts a duty on every employer to ensure just and humane conditions of work and for maternity relief. In reality the position and treatment of women in corporate offices is really bad and in fact they are exploited by their seniors and bosses. In this scenario the provisions of article 42 are very important and now it is the duty of employer to provide good working conditions to all the employees.

7. Article 51A: Article 51A of the Constitution lays down fundamental duties of all citizens. It stipulates that all citizens have a duty to promote harmony and to renounce practices which are derogatory to the dignity of women.

8. Article 243: Article 243 D (3) provide for reservation of not less than one third of total number of seats in Panchayats for women to be allotted by rotation to different Constituencies and Article 243 T (3) provide for reservation of not less than one third of total number of seats in Municipalities for women to be allotted by rotation to different Constituencies. Article 243 D (4) and Article 243 T

(4) provide that not less than one third of the total number of officers or chairperson in the Panchayats and municipalities at each level to be reserved for women. This opportunity of being a part of the local level arbitration process has improved the social conditions of women in village areas.

Legal rights to women

Laws related to women are classified under two major categories

A. Indian Penal Code (i)

Rape (Sec. 376 IPC): A rapist, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

(ii) Kidnapping & Abduction for different purposes (Sec. 363-373): any person who is abducting a minor for purpose of begging or kidnapping minor/women for prostitution or illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(iii) Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC): Whoever commits dowry death shall be punished with imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life.

(iv) Torture, both mental and physical (Sec. 498-A IPC): Husband or relative of husband of a women subjecting her to cruelty, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

(v) Molestation (Sec. 354 IPC): Whoever assaults or uses criminal force to any women, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

(vi) Sexual Harassment (Sec. 509 IPC): Whoever, intending to insult the modesty of a woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such gestures or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

B) Special Laws

(i) The Protection of Women from Domestic Violence Act 2005: This act enacted to protect women from all forms of domestic violence. It provides protection to the wife or female live-in partner from domestic violence from the husband or male live-in partner or his relatives. This act includes to violence of any kind like physical, sexual, verbal, emotional.

(ii) Dowry Prohibition Act (1961): This act prohibits the giving or receiving of dowry at or before or any time after the marriage from women.

(iii) The family courts Act (1954): The family courts act provides for the establishment of family courts for speedy settlement of family disputes. This act concludes relating to family matters like matrimonial reliefs, custody of children, maintenance for wife and children.

(iv) The Sexual Harassment of Women at Workplace act (2013): This act seeks to protect women from sexual harassment at their place of work and contribute to realization of their rights to gender equality, life and liberty and equality in working conditions everywhere.

(v) The Medical Termination of Pregnancy Act (1971): Intention of this act is reducing the incidence of illegal abortion and maternal mortality and morbidity. This act provides for the termination of certain pregnancies by registered medical practitioners on humanitarian and medical grounds.

(vi) The Equal Remuneration Act (1976): This act provides for the payment of equal remuneration to both men and women workers for the same work. It prevents discrimination on the ground of sex. So, working women have the rights to draw an equal salary as compared to men.

(vii) Maternity Benefit Act (1961): This act regulates the employment of women in certain establishments for certain periods before and after child-birth and provides for maternity

benefit. (viii) **Legal Services Authorities Act (1987)**: It provides for free legal services to Indian women. (ix) **Hindu Marriage Act (1955)**: This act introduced monogamy and allowed divorce on certain specified grounds. It provided equal rights to Indian man and woman in respect of marriage and divorce.

(x) **Hindu Succession Act (1956)**: This act recognizes the right of women to inherit parental property equally with men. The other various laws which also contain certain rights and safeguards for women which includes Minimum Wages Act (1948), Employees State Insurance Act (1948), Employees' State Insurance Act (1948), Immoral Traffic (Prevention) Act (1956), Plantation Labour Act (1951), Bonded Labour System (Abolition) Act (1976), Muslim women (Protection of Rights on Divorce) Act (1986), Special Marriage Act (1954), Foreign Marriage Act (1969), Hindu Adoptions and Maintenance Act (1956).

Legal Status of a Woman in India

Women in India are being provided with the legal security to secure their economic, social and cultural lives. These are few acts which show the efforts made by Indian Government in interest of women's life safeguard. Dowry Prohibition Act 1961, Maternity Benefit Act 1861, Births, Deaths & Marriages Registration Act 1886, Medical Termination of Pregnancy Act 1971, National Commission for Women Act 1990, Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1999, Protection of Women from Domestic Violence Act 2005, Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act 2013, Hindu Widows Remarriage Act 1856, Muslim women (protection of rights on divorce) Act 1986, Guardians and Wards Act 1890, Indian Penal Code 1860, Christian Marriages Act 1872.

RIGHTS OF CHILDREN

Census 2011 counted more than 440 million children in India below 18 years of age constituting 37% of the total population of the country. Within the age group of 0-17 years, children between 0-6 years constituted about 14% of the total population of children in India followed by 17% between 7-14 years and the remaining 6% in the age group of 15-17 years. With an Infant Mortality Rate of 41 children dying before attaining one year of age per 1000 live births, the United Nation Population Division has ranked India as the 144th country out of a total of 188 listed countries as far as IMR is concerned. The World Bank report records 53 children dying before the age of five per 1000 live births for India. These are a few of the glimpses of the status of the children in India that needs close scrutiny. With poverty on one side and vulnerability on the other, the children needed an umbrella of protective cover from the world around them. In this context, issues revolving around the different facets of rights of the children gained momentum. As a result of such endeavor, The UN General Assembly adopted the Convention and opened it for signature on 20th November 1989 (the 30th anniversary of its Declaration of the Rights of the Child).

It came into force on 2nd September 1990 after the required number of nations ratified it. Currently, 194 countries are party to it, including every member of the United Nations. The strategy adopted by the world was to combat poverty on one hand and on the other, usher strict implementation of the different facets of child rights including right to survive, right to

protection, right to development and right to participation. It is almost two-and-a-half decades since the onset of UNCRC (1990) and hence it is time to prospectively assess the situation of the children and child rights in India.

The child rights in the Indian constitution as described in the Convention have been summarised into the following fundamentals with references to various articles.

Constitutional Provisions Regarding Rights of Children The Constitution of India guarantees certain rights to the children of India which are mentioned in its Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy). These are elaborated below,

Part III:

Article 14: Voters of India, as well as children, should be treated equally before law and should be equal protection by the law with no discrimination.

Article 15(3): Discrimination is prohibited by the constitution. However, it shall not hold a ground to forestall the state from creating special provisions for children for his or her advantage.

Article 21: Nobody shall be bereft of his life or personal liberty unless by a due process of law. An individual should have proper and adequate food, shelter, clothing, etc. Such life shall not mean mere animal existence.

Article 21A: The State shall offer free and required education to any or all the children falling within the age group of six to 14 years in such manner which the State could, by law, determine. **Article 23:** Prohibits trafficking in citizenry and beggar or the other sort of forced labour. **Article 24:** Prohibits employment of youngsters beneath the age of fourteen years in an exceedingly mill, mine or in the other dangerous employment.

Part IV:

Article 39 (e): The state shall thrive to make sure that the tender age of youngsters isn't abused, and that people aren't forced by financial necessity to enter into activities which are unsuited to their age or strength.

Article 39 (f): The state shall guarantee children opportunities and facilities to develop in an exceedingly healthy manner and in conditions of freedom and dignity. It should even be ensured that childhood and youth of the child is protected against exploitation and against unethical and material abandonment.

Article 41: The state is obligated to, among its economic capability and development, secure provisions for academic opportunities and facilities.

Article 44: The state shall create all potential efforts to secure an identical Civil Code for all the citizens, thereby implying an identical code for the adoption of youngsters.

Article 45: The state shall endeavor to produce free and required education to kids till they attain they age of fourteen years. **Article 46:** It's the duty of the state to push the economic interests of weaker sections of the society with special care and thus, the children in that.

Article 47: The state is obligated to boost the extent of nutrition and also the normal of living and to enhance public health, as well as that of youngsters.

Article 51(c): International laws and treaties shall be revered by the state to each potential extent, as well as the CRC and its optional protocols.

Article 51(k): It shall be the duty of each national of India who may be a parent or guardian to produce opportunities for education to his kid or, because the case could also be, ward between the age of six and fourteen years.

Article 243G: It provides for the institutionalization of child care by seeking to entrust programs of Woman and Child Development to Panchayat (Item twenty-five of Schedule 11).

Indian Penal Code 1860

The Indian Penal Code offers protection to children and their rights by its various sections. Some of these sections are:

- **S.83:** An offence which is done by a child above seven years of age and under twelve, and has thereby not attained sufficient maturity in order to understand the nature and consequences of his action shall not be liable for the same.
- **S.292 & 293:** Selling, distribution, publishing, public exhibition or circulation of obscene material such as books, magazines, drawings, paintings, etc. is prohibited under Section 292. Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in Section 292, or offers or attempts so to do, shall be punished more severely.
- **S.305:** Abetting the commission of suicide of a person who is below the age of 18 years is punishable under this law.
- **S.317:** Abandonment of a child or exposure for that purpose by any of the parents or any person having the care of such child is punishable.
- **S.361:** This section punishes offenders who kidnap a child.
- **S.363A:** Kidnapping or maiming children for the purpose of begging is made punishable under this provision.
- **S.366A:** Inducing any minor girl who is under the age of 18 years to do any act that may force or seduce her to illicit intercourse with another person is made punishable under this section.
- **S.366B:** It makes it a punishable offence to import a girl under 21 years of age into India from a country outside India with a intention that she may be forced or seduced to enter into illicit intercourse with another person.
- **S.369:** Kidnapping a child under the age of 10 years with the intention to steal from such child is an offence.
- **S.372 & 373:** Selling, buying or hiring a person under 18 years of age with the intention of indulging in prostitution or illicit intercourse with any person, or for any unlawful or immoral purpose is a punishable offence.
- **S.375:** This section defines rape as intercourse with a woman without her consent or with a woman below 16 years of age.
- **S.376:** The section provides for stringent punishments if: Volume 6 Issue 3 & 4 o rape is committed by m o rape is committed by management or staff of Remand Home or any other place of custody established by law or children's institution, o rape is committed upon a woman under 12 years of age, o gang rape is committed.
- **S.376C:** Inducing or seducing a woman into sexual intercourse by the Superintendent or manager of a remand home or a place of custody as 'children's institution' by taking advantage of his position, he is entitled to stringent punishment under this provision.

Guardians and Wards Act 1890 This Act is said to supersede all the laws relevant to the guardianship of a child. It is treated as a universal code specifically designed for Muslims, Parsis, Christians and Jews, since their personal laws do not permit full adoption but only guardianship. This Act deals only with the guardianship of the person and property of the minor. In appointing or declaring the guardian of the minor the court shall take into consideration the circumstances of the case for the welfare of the minor and consistent with the law to which the minor is subject. Among the entire factor considered by the court, the welfare of the child is the paramount consideration.

3 Immoral Traffic (Prevention) Act (Amended in 1986), 1956 This Act particularly deals with person or persons who procure or attempt to procure any child for the purpose of prostitution or person who is found with a child in a brothel (then it will be presumed that child has been detained for this purpose) and provides punishment for them. It also lays provisions for the care of rescued children.

The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Amendment Act 2000 The primary objective of this Act is the regulation and prevention of the pre-natal sex determination in order to prevent female foeticide. The Act intends to address the issue of female foeticide and Sex-Selection by imposing a ban on pre-conception tests or other procedures for the purpose of ensuring or increasing the probability that the child will be of a particular sex. Medical advancement in the field of assisted reproduction necessitated such provisions. The Act also provides for strict regulation of genetic clinics, laboratories or centers with minimum standards prescribed in terms of space, equipment and qualification of staff. As per the provisions under the Act, before conducting any prenatal diagnostic procedure, the medical practitioner must obtain a written consent from the pregnant woman in a local language that she understands. Prenatal tests can only be performed in specific circumstances, such as risk of chromosomal abnormalities in the case of women over 35, and genetic diseases evident in the family history of the couple.⁴ In *Vinod Soni vs. Union of India*⁵, the constitutionality of Pre Conception and pre-Natal Diagnostic Techniques (Prohibition of Sex-Selection) Act, 2003, was challenged on the basis of right to privacy. Mumbai High Court upheld the Act as constitutional.

Protection of Children from Sexual Offences Act, 2012 This Act is aimed at punishing the offenders guilty of sexual offences against children (below the age of 18 years of age). It also prescribes procedures for trial, such as, the name of victim shall not be disclosed since he is a child, proceedings of the case will be conducted in the court with cameras recording the trial, and that the accused is not to be kept in-front of the child victim while the examination or cross-examination is being conducted.

The Act defines different forms of sexual abuse, such as penetrative and non-penetrative assault, including sexual harassment and pornography, and also deems a sexual assault to be “aggravated” under certain circumstances, such as when the child abused is mentally ill or when the abuse is committed by a person in a position of trust or authority vis-a-vis the child,

like a family member, police officer, teacher, or doctor. People who traffic in children for sexual purposes are also punishable under the provision relating to abetment in the said Act. The Act prescribes stringent punishment graded as per the gravity of the offence, with a maximum term of rigorous imprisonment for life, and fine. In keeping with the best international child protection standards, the said Act also provides for mandatory reporting of sexual offences. This casts a legal duty upon a person who has knowledge that a child has been sexually abused to report the offence, if he fails to do so, he may be punished with six months' imprisonment and/or a fine.

The Act also casts upon the police, the role of acting as a child protector during the investigative process. Thus, the police personnel receiving a report of sexual abuse of a child are given the responsibility of making urgent arrangements for the care and protection of the child, such as obtaining emergency medical treatment for the child and placing the child in a shelter home, should the need arise. The police are also required to bring the matter to the attention of the Child Welfare Committee (CWC) within 24 hours of receiving the report, so the CWC may then proceed where required to make further arrangements for the safety and security of the child. The said Act makes provisions for the medical examination of the child in a manner designed to cause as little distress as possible. The examination is to be carried out in the presence of the parent or other person whom the child trusts, and in the case of female child, by a female doctor.

The Right of Children to Free and Compulsory Education Act, 2009 The Right of Children to Free and Compulsory Education Act, 2009 defines 'child' as a male or female child of the age of six to fourteen years.⁶ Elementary education means the education from first class to eight classes.⁷ 'Capitation fee' means any kind of donation or contribution or payment other than the fee notified by the school.⁸ According to this law, a child belonging to disadvantaged group means a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economic, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government, by notification⁹ and child belonging to weaker section means a child belonging to such parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government, by notification. The Act guarantees that no child shall be denied admission in a School for lack of age proof.¹¹ For the purposes of admission to elementary education, the age of a child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1886 or on the basis of such other document, as may be prescribed.¹² The Right to Free and Compulsory Education Act prohibits a School from holding back a child in any class or expelling a child from School till the completion of elementary education. The Act also prohibits the School from giving any type of physical punishment or mental harassment to any child¹⁴ and whoever contravenes this provision shall be liable to disciplinary Action under the service rules applicable to such person.

The Juvenile Justice (Care and Protection of Children) Act, 2015 The Juvenile Justice (Care and Protection of Children) Act, 2015 has come into force from 15th January, 2016 and

repeals the Juvenile Justice (Care and Protection of Children) Act, 2000. It follows certain principles such as the Principle of presumption of innocence, Principle of dignity and worth, Principle of participation, Principle of best interest, Principle of family responsibility, Principle of safety, Positive measures, Principle of non-stigmatizing semantics, Principle of non-waiver of rights, Principle of equality and non-discrimination, Principle of right to privacy and confidentiality, Principle of institutionalization as a measure of last resort, Principle of repatriation and restoration and other principles like the Principle of fresh start, that is all past records of any child under the Juvenile Justice system should be erased except in special circumstances.

The Commissions for the Protection of Child Rights Act, 2005 In view of the National and International development and concern towards child rights violation the need for a National Commission for Protection of Child Rights has been articulated by many social scientists and non-governmental organizations. The Government accordingly decided to set up the National Commission for Protection of Child Rights and for better protection of their rights by providing speedy trial of offences against children or for violation of child rights. The States have also been authorized to set up State Level Commission for Protection of Child Rights in their respective states. India has also participated in the United Nations General Assembly Summit in 1990 which adopted a Declaration on Survival, Protection and Development of children.

The National Commission of the Protection of Child Rights consists of, one Chairperson and six members. The Chairperson shall be a person of eminence who has done outstanding work for promoting the welfare of the children.¹⁵ Out of six members, at least two should be women. The other members should be persons of eminence, ability, integrity, standing and experience in the field of education, child health care, and welfare and child development, juvenile justice care of neglected or marginalized children or children with disabilities, elimination of child labour or children in distress, child psychology or sociology or Laws relating to children.

The Prohibition of Child Marriage Act, 2006 It restrains child marriage until the minimum age, i.e. 21 for male and 18 for female, has been attained by them. It applies to the people of all the religions. The basic objective of the Prohibition of Child Marriage Act, 2006 is to provide for the prohibition of solemnization of child marriages and for matters connected therewith or incidental thereto.

Child Labour (Prohibition and Regulation) Act, 1986 This act regulates the working conditions for children in employment and prohibits working of children in certain kinds of employments.

The Act prohibits the employment of children in certain occupations and processes set forth in Part A58 and Part B59 of the Schedule. The Court also must strive to interpret the statute as to protect and achieve the objective and purpose of the enactment. Any narrow or technical interpretation of the provisions would defeat the legislative policy. The Court must, therefore,

keep the legislative policy in mind in applying the provisions of the Act to the facts of the case. The Act also provides that the Central Government may, by notification in the Official Gazette, constitute an Advisory Committee to be called the Child Labour Technical Advisory to advise the Central Government for the purpose of addition of occupations and processes to the Schedule.¹⁷ The Committee shall consist of a Chairman and such other members not exceeding ten, as may be appointed by the Central Government. The Act penalizes the person who employs any child or permits any child to work in contravention of the provisions of section 3, with imprisonment for a term which shall not be less than three months, but which may extend to one year or with fine which shall not be less than ten thousand rupees, but which may extend to twenty thousand rupees or with both. Upon repeating the act of employing the child in contravention of provisions of section 3, the employer shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years.

The Medical Termination of Pregnancy Act, 1971 In order to save the pregnant women's health, strength and sometimes, life, the Medical Termination of Pregnancy Act was passed in 1971. It legalized abortions under certain conditions. So, it is obvious that the Medical Termination of Pregnancy Act, 1971 is made in favour of mother and as well as in favour of unborn child. It put forth the principal that death is better than sufferings, as the Act allows killing of child in mother's womb, where there is substantial risk that the child, if born, would suffer from deformities and diseases. The provisions of this Act are however, sometimes misused. The right to abortion is essential for a woman to have control over her reproductive process. But in Indian society, the reason behind a large number of abortions is neither the health of the woman, nor reproductive right but the sex of the unborn child. Abortions are generally performed to get rid of the child who is female (sex-determination test), which is illegal and criminal both on the part of parenting as well as doctor who performs such abortion.

In spite of, both legislative and constitutional provisions for the protection, as well as prevention from the sexual abuse of children, there is no stoppage of such type of incidents of exploitation and abuse. On the other hand, number of such cases is alarmingly increasing day by day. As a result, judicial intervention has been felt necessary, but such intervention is not sufficient enough to meet the necessities of time to control the exploitation of children. It has been also observed from various judgments of decided cases that in many cases at the time of pronouncing punishment for committing offence against the children, mainly in case of sexual offence, judiciary often give the lesser punishment in comparison with the gravity of offences committed by the offender.

RIGHTS OF PERSON WITH DISABILITY

Disabilities can be physical in nature, cognitive, behavioral, or even emotional. This particular disabilities topic center contains mostly reference to physical and sensory forms of disability, as other forms are adequately covered in other topic centers. All human beings are born free and equal in dignity and rights. People with disabilities all over the world experience human rights violations, stigma and discrimination. To have a disability means

that one has fundamental difficulty accomplishing things that others take for granted. There are many social factors that can affect whether or not individuals with disabilities are included or excluded from participation on various activities, which in turn can affect development or esteem. Disability is thus just not a health problem. It is a complex phenomenon, reflecting the interaction between features of a person's body and features of the society in which he or she lives.

Meaning of Disability:

Disability is an impairment that may be cognitive, development, intellectual, activity, limitations, sensory or some combination of these. It substantially affects a person's life activities and may be present from birth or occur during a person's lifetime. Disability is a contested concept, with different meanings of different communities. It may be used to refer to physical or mental attributes that some institutions, particularly medicine, view as needing to be fixed. It may refer to limitations imposed on people by the constraints of an ablest society. People with disabilities have the same health needs as non disabled people for immunizations, cancer screening etc. They may also experience a narrow margin of health both because of poverty and social exclusion and also because they may be vulnerable to secondary conditions such as pressure sores or urinary tract infections.

International Human Rights: UN Charter:

The charter of the United Nations of 1945 is the foundational treaty of the United Nations, an intergovernmental organization. Article 55 says that With a view to the creation of conditions of stability and well being which are necessary for the peaceful and friendly relations among nations based on respect for the principle of equal rights and self determination of people's, the United Nations shall promote:

- a. Higher standard of living, full employment and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems and international cultural and educational cooperation
- c. Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

Declaration on The Rights of Disabled Persons:

The Declaration of the Rights of Disabled persons was a declaration of the General Assembly of the United Nations made on 9 Dec 1975. It is the 3447th resolution made by the Assembly.

The disabled person shall enjoy all rights contained in this declaration without distinction or discrimination. The disabled persons have inherent rights to respect for their human dignity and irrespective of the origin, nature and seriousness of their handicaps and disabilities, have same Fundamental Rights. Disabled persons have the same civil and political rights as other human beings. Disabled persons are entitled to the measures designed to enable them to become as self-reliant as possible. Disabled persons have the right to economic and social security, including the right, according to their capabilities, to secure and retain employment or to engage in a useful, productive and remunerative occupation and to join trade unions.

Disabled persons have the right to live with their families or with foster parents and to participate in all social, creative or recreational activities. Disabled persons shall be protected against all exploitation and treatment of a discriminatory, abusive or degrading nature.

Provisions of the Declaration include:

- 1) The definition of "disabled person" as anyone who cannot ensure the necessities of a normal individual and or social life as a result of deficiency in physical or mental capabilities.
- 2) A non discrimination clause applying the Rights to all disabled persons regardless of " race , colour, sex, language, religion, political or other opinions , national or social origin , state of wealth, birth " or other situation
- 3) Anna statement regarding disabled persons right to respect for their human dignity.

The Convention on the Rights of Persons with Disabilities:

The Convention on the Rights of Disabilities is an international human rights treaty of the United Nations intended to protect the Rights and dignity of persons with disabilities. Parties to the convention are required to promote, protect and ensure the full enjoyment of human rights by persons with disabilities and ensure that they enjoy full equality under the law.

In the charter of the United Nations it is proclaimed that the inherent dignity and worth and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. It is supposed that the convention would make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, and social and cultural spheres with equal opportunities, in both developing and developed countries. The convention on the Rights of Persons with disabilities deals with matters such as, general principles on the basis of which the rights of the disabled persons are to be promoted and protected, the obligations that have been undertaken by the State parties to adopt measures. The protocol has been added to the present convention authorizing the Committee on the Peron with Disabilities to receive and consider communications from or on behalf of individuals or groups of individuals, who claim to be victims of a violation by a State party of the provisions of the present convention.

Constitutional Rights of Disabled Persons:

1. Prohibition of Discrimination:

Article 15 is a manifestation of "Right to Equality" under article 14, as it enshrines a specific dimension of the principles of equality relating to discrimination by state or various grounds. Under article 15 the protection extends only to citizens, unlike article 14 which protects 'any person' . Thus in application article 15 protects from discriminatory state activities but the ambit of article 15 is narrower than that of article 14.

Article 15 of the Indian constitution deals with "prohibition of discrimination" on the grounds of religion, race, caste, sex or place of birth.

It runs as follows:

Article 15(2) says, no citizen shall on the grounds only of religion, race, caste, sex, place of birth or any of them, be subjected to any disabilities liability restriction or condition with regard to :

- (a) Access to shops, public restaurants, hotels and places of public entertainment; or
- (b) The use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of the state funds dedicated to the use of the general public.

Equity in Social, Economic and Cultural Rights:

Article 25 of the CRDP recognizes the “right of a person with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity , state parties shall ensure an inclusive education system at all levels and lifelong learning.” They considered constitution to grant education to children with disabilities if they explicitly guarantee the right to education , the right to free education, or the right to compulsory education to children with disabilities or prohibit discrimination in education on the basis of disability. Globally only 28% of the countries provide some type of constitutional guarantee of educational rights or the children with disabilities.

3. Right to Work:

Article 27 of the CRDP instructs states to “recognizes the right of persons with disabilities to work, on an equal basis with others; this includes the rights to opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities.

Right to Liberty:

Article 14 of the CRPD instructs state parties to guarantee people with disabilities the right to liberty and security of person. We considered the right to liberty to be guaranteed to persons with disabilities if they were explicitly granted the right to freedom or liberty. Globally, only 9% of the constitution explicitly guarantees the right to liberty to persons with disabilities. However 19% of the constitution specifies that the right to liberty can be denied to persons with the mental health condition.

Right to Freedom of Expression:

In article 21, the CRPD states that to “take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion include the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communications of their choice.”

Rights of Disabled Persons in India:

Persons with disabilities are one of the most neglected sections of our nation. This is due to the sheer indifference of the society which subjects such people to disapproval and antipathy. Such people have several rights under various Indian laws as well as UN conventions that are followed in India. Under section 2(i) of Persons with Disabilities Act, 1995, "disability" includes blindness, low vision, leprosy cured, hearing impairment, locomotor disability, mental retardation and mental illness.

Disability Certificate: It is the most basic document that a disabled person should possess in order to avail certain benefits and concessions. The State Medical Boards established under the State governments can issue a disability certificate to any person with more than 40% disability.

Disability Pension: People who are above 18 years of age, suffering with more than 80% disability and are living below the poverty line are entitled to the disability pension under the Indira Gandhi National Disability Pension Scheme. Various NGOs are dedicated to this because i.e. they help such persons with disabilities to get their disability pension.

Employment: In government jobs, 3% of the seats are reserved for persons with disabilities.

Income Tax Concession: Under sections 80DD and 80U of Income Tax Act, 1961, persons with disabilities are also entitled to certain income tax concessions.

Person with Disabilities Act 1995

The Persons with Disabilities Act, 1995 had come into enforcement on Feb 7, 1996. It is a significant step which ensures equal opportunities for the people with disabilities and their full participation in the nation building. The Act provides for both the preventive and promotional aspects of rehabilitation like education, employment and vocational training, reservation, research and manpower development and rehabilitation of persons with disability, unemployment allowance for the disabled persons.

Main Provisions of the Act:

- 1) Prevention and Early Detection of Disabilities
 - 2) Education
 - 3) Employment
 - 4) Non discrimination
 - 5) Social Security
 - 6) Research and manpower development
 - 7) Grievance Redress In *Jared Abiding v. Union of India* the supreme Court bearing in mind the discomfort and harassment suffering by a person of locomotor so disability would face while travelling by train particularly to far off places issued directions to the Indian Airlines to grant persons suffering from locomotor so disability to the extent of 80%.
- In *National Federation of blind v. UPSC* The supreme Court held that, UPSC may be directed to allow blind persons for appearing the examinations for Indian administrative and allied Services.
- In *Government of NCT of Delhi v. Bharath Lalmeena*: The Delhi High court held that people with disabilities can be appointed as physical education teachers provided they have passed the qualifying examination undergone the requisite training.

Policies in India:

National policy for persons with disabilities, 2006. The Government of India formulated the national Policy for persons with disabilities in Feb 2006 which deals with the physical, educational and economic rehabilitation of persons with disabilities.

The National Policy recognise the Persons with Disabilities are valuable human resources for the country and seeks to create an environment that provides them equal opportunities, protection of their rights and full participation in society . Some of the aspects which the policy focuses on are:

- 1) Prevention of Disabilities 2) Rehabilitation Measures 3) Women with disabilities 4) Children with disabilities

The Rehabilitation Council of India Act, 1992

The Rehabilitation Council of India Act, 1992 ensures that persons living with disabilities are handled pretty by rehabilitation personnel. The next are among the requirements that should be maintained by rehabilitation officers:

Persons living with disabilities should be served by professionally trained rehabilitation officers. The title of pros should be on the register maintained by the Council.

The rehabilitation personnel must be qualified and should possess all the required {qualifications} to be appointed

The rehabilitation personnel should work with the best stage of professionalism, else the officer could also be sanctioned and his/her name removed from the Council's register.

The government should properly regulate the career of rehabilitation officers.

Income Tax Concession

Persons living with disabilities also have the right to enjoy earnings tax concession. This right is guaranteed under the Income Tax Act, 1961 sections 80DD & 80U.

Employment

The Indian government via the constitution ensures that 3% of the vacant positions in government jobs are reserved for the disabled.

The Mental Health Act, 1987

The Mental Health Act, 1987 guarantees the following rights to persons living with disabilities:

Persons living with mental disabilities should be admitted and treated in a government-owned hospital, convalescent house, and psychiatric hospital.

The right to admit and treat mentally retarded prisoners or minors in a government-owned nursing home or psychiatric hospital.

Minors below 16 years, alcohol addict, drug addict, and any person convicted of committing offence all have the right to be admitted and treated in a government-owned psychiatric hospital.

Mentally retarded persons are protected by the constitution with the right to receive directed, regulated, and coordinated medical services from government-owned hospitals. The Act established Regulatory agencies both at the state and centre level to license these hospitals.

The right to receive treatment and care on the above-mentioned hospitals each as a patient and as an out-patient.

Mentally disabled persons can seek voluntary medical admission in above-mentioned hospitals. Their guardian can also seek admission on their behalf if they are minors. A go well with can be filed in a Justice of the Peace courtroom to implement this order

Safety agencies ought to defend a wandering mentally disabled particular person by taking him/her to safe custody and then inform the relations or strategy a local magistrate with the disabled for the magistrate to pronounce a reception court order.

The right for mentally disabled persons to go away from the hospital after recovery.

The right to guard and handle the properties of mentally disabled individuals. If they can not handle it themselves, the courtroom would appoint a guardian to handle the properties.

The medical bill of mentally disabled persons shall be borne by the government, except in cases where the relatives agree to pay the medical bill.

Mentally disabled persons that are being treated have the right to not be subjected to any cruelty or indignity.

Mentally disabled persons have the right not to be used for research purposes without their consent.

Mentally disabled persons have the right to receive their pension, payment or gratuity from the government. A guardian certified by the magistrate can receive the payment on behalf of the disabled persons.

This Act provides the right to obtain free authorized illustration within the occasion that he/she can't interact with a lawyer.

Disability refers to the disadvantage or restrictions of activity caused by the way society is organised which takes little or no account if people who have physical , sensory or mental impairments . Disability is an unfortunate part of human life which can effect not only the natural way of a living but also despair component strength and power . The Government needs to launch more social security schemes for disabled sections and generate more employment opportunities for them. Several schemes and benefits conference on the disabled persons has come up as relief and has successfully served to provide equal opportunities to the disabled section.

RIGHTS OF ELDERLY

In Indian societies the family structure is more complex and the human relations are to be valued, its starts right from the socialization processes in human life. Recently those concepts are drastically changing due to the life style adopted by the people losing every kind of values, confining with selfish nature by suppressing the humanitarian views. These developments are affecting directly or indirectly towards in numerous social problems. Violence against elderly people is no exceptions. Such developments are presently breaking the family structure and humanity. Elderly crimes are most serious issues in Indian conditions. At presently there are 95 million population in India is above 60 years of age according to Help Age India Report predicted changing values in family system, economic compulsion of the children, Neglect and abuse are kind a serious problem in India makes flowing elder population towards Old Age Homes. The elders are most vulnerable to the crimes and easily become victims. Weak conditions may enhance the precipitation chances.

The constitutional Provisions for Elders

The constitution of India in the protection of elders dignity and safety in all sorts of conditions, has given the certain provisions mentioned in constitutional directive principles.. It's the direction to all the people shall respect the provisions. Article 41, states, to make

effective of right to work and assistance by public, Article 46 also states, the provision for the educational and economic interest of the weaker sections to be made by the state.

Legal Provisions

In the Indian Criminal Justice system, the local special laws are having important role. Especially the canonical laws relating to the religious are not uniform in nature, applicable conditions varies from religion to religion in India.

The criminal Procedure Code

The section 125 of Cr.p.c, states the Elder parents appeal to maintenance form their children, it is applicable to all the people in uniform. But the reality will be investigated if they are not provided truly the relevant maintenance. It is also humanitarian concept that every children should look after their parents. But the procedural law makes provisions. The rights of the elders recognized by the section 125(1)(d) of the Code of criminal Procedure 1973, and the section 20(1and3) of the Hindu Adoption and Maintenance Act, 1956.

Personal Laws: It is virtual and moral issue of the children to look after their parents; however the legal frame works also initiate the same.

A) Hindu Laws: This is an religious law for the Hindu's in India, the statutes provides the maintenance of parents under the law is stated in the section 20 of the Hindu adoption and maintenance act 1956, that shall impose an obligation on the children to look after their parents.

B) Muslim Law: The act states that the children have their duty to maintain their aged parents. Children should bind to look after, the role of the son to take care, son also shall help the parents in their earnings.

Human rights Perceptive

Human rights are derived through the roots of the fundamental rights of human beings to live, the Universal declaration of Human rights, section 25 states, that the every person has his right to live with standard, with health and wellbeing himself, in the basic needs like food, clothing, Housing, Medical service, and all sorts of social service and right to security in the employment. The elder's dignity and the abuse are to strictly taken enough care; every person is to be liable to the all rights.

The United Nations Principles on Rights of Elderly

The national policy of elders was declared by the Government of India in 1999, it is guideline through the United Nation General assembly made its decision to note the year 1999 as International year of older persons in keeping the assurance to older persons. Further developments in international context, UN general assembly made proclamation on ageing and the global targets in the year 2002. The United Nations organization assures the rights of elderly in order to protect them by discrimination and abuse. Today's condition of the elders is most perturbing due to negligence and abuse of their dignity. As human beings we should treat them with care. There are so many reasons to explain the pain of elders insecure from their own families. This is prime objective to ensure the dignity with the protected rights.

Hence the action with the guidelines of United Nations has been enacted. Some of the principles are followed,

- 1). Older persons should have their opportunity to work and determine themselves when to leave the job.
- 2). Elders should remain integrated with the society and they should actively participate in the formulation of Policies which affect their wellbeing.
- 3). Elder persons shall entitle in opportunities for the full development of their potential and have access to educational, cultural and spiritual also the recreational resources of society.
- 4). Elder persons should be able to live in dignified and safety also free from exploitation and mental as well as physical abuse.

The Maintenance and Welfare of Parents and Senior Citizen Act, India– 2007.

The act is enacted with the objectives of upholding the welfare of the elders. It is strictly initiated that the children shall maintain their elders, Grand Parents and other relative elders shall come under the maintenance. And also the act ensures protection to their lives and property. Further this act also suggests the creations of Old age homes for those elders in needy. State governments should establish Old age homes with the inmate's number 150 in every district level. This act also emphasizes to establish the tribunal in every district in order to facilitate every elder to claim their rights of the maintenances from their children. The monthly expenditure of rupees 10,000/- shall claimed by the elders from their children, if they do not pay, they may experience liable for punishment of 3 months of imprisonment or 5000 rupees fine or both.

The Concessions and Facilities Given to Senior Citizens in India.

There are several facilities available to the elders in India in order to empower them to lead dignified life with good health. The Union government of India has facilitated with minimum facilities and also it is same with the respected state governments. The following facilities are ensured by the various ministries are:

Ministry of Social Justice and Empowerment: This is the ministry where the prime responsible laid within its establishment for the welfare of the Senior citizen virtually. It has announced the National Policy on Older persons of 60 years of age and above. The implementation and Schemes are,

- 1). An Integrated program for Older People (Plan Scheme)- This is the scheme for formulating by revise of the earlier plan — Assistance to Voluntary Organization for programs relating to the welfare of the aged. In this the financial assistance is available of 90% of the project cost is provided to NGO's for establish and to the maintenance of Old age Homes, Day care Centers, Mobile medical care units and to provide non institutional service to older persons.
- 2). The Scheme of assistance to Local bodies or Panchayathi rai, Voluntary institution, Self help Group for Construction of old age Homes, Multi service centers for older person (non-plan scheme) under the scheme one time construction grant for old age homes, multi service centers are provided to non-governmental organizations on the recommendation of the state governments and union territories.

Ministry of Finance: The income tax rebates up to the income of rupees 3 lakh per year. And also the high rate interest on saving schemes to the senior citizen. The savings scheme offers an interest rate is 9% per year on the deposits made by the senior citizen in post offices has been introduced by the government through post offices in India.

Ministry of Road Transport and Highways: Two seats will be Reserved for the senior citizen in front seating's in the public transport of the respective state governments. Some states are providing concessions to the senior citizen in the state road transport.

Ministry of Health and Family Welfare: There is a facilitation of separate queues for the hospitals and the clinical examination and the preferences are given.

Ministry of Railways: Indian Railways are the best mode of transportation in India available to the senior citizen. There is a 30% of the fare reduction and concession facilities in all the train tickets for the senior citizens of the 60 years of the age and above. Also the ministry provides separate counters to get purchase the tickets. Some social and humanitarian value are protected, wheel chair in all the stations.

Ministry of Civil Aviation: India airlines provide 50% of the concession in normal economy class for the senior citizen. The age shall be 65 years and above. 63 years in case of female.

Ministry of Consumer affairs, Food and public Distribution: The various schemes are provided to the elders under the Anthyodaya scheme, the below poverty Line families provided food grains at the rate of 35 kg per family per month. Under the Annapoorna Scheme implemented by the state and the Union territories, for elders those who are not covered under the old age schemes. The scheme offers food grains. This is how the government at the central level and the respected state governments are providing the various facilities to the senior citizen.

Legal Services

The legal services are available through the Government of India. The Free legal services are mandatory in the entire district across the country through the Legal service Authority. Elder citizen also can be benefitted under this; some Lawyer's associations are providing free service to the elders voluntarily. Also NGO's helps in this regard, those who are needy can approach the concerned authorities.

Other Government Policies and the Schemes: Government motto is to protect the elders in promoting their health, Wellbeing and to make capable independently. Some of the available policies are,

A) National Policy for Older Persons: The Union Government of India enacted the National policy for older persons in 1999 to promote the Health, Safety, Social Security and Care. This policy considers the age of 60 and above is elders. The prime intention behind is to encourage the families to take care of their parents and grandparents, to support, also this policy provides the facilities to the Voluntary and NGO's to ensure the dignity of the elders who are so vulnerable in the society. This policy also ensures the financial security, Health care, Nutrition, Shelters, education, welfare, Protection of life and Property.

B) National Council for older persons: National council NCOP has been established by the ministry of Social Justice and Empowerment with basic objectives like, advising the government to enact the suitable policy, provides the feedback and implementations,

initiatives and special programs, redressing and grievance cells, concessions, rebates, discounts at government and corporate sectors, establish old age homes.

C) Integrated Program for Older Persons: Ministry of Social Justice and Empowerment provides the scheme of financial assistance about 90% of the project cost to NGO's, this is going to be used for old age homes, Centers, mobile Medicare units. These facilities are also extended to the Government Panchayathi raj, institutions, Local Bodies. These institutions shall serve by establish of Day Care centers, Alzheimer awareness, Dementia, Physiotherapy clinics, Helplines, Counseling centers, Sensitizing programs, awareness, Formation of senior citizen associations.

As society progresses, the living conditions and lifestyle are fluctuating due to various reasons. Stress full life leading people towards more complexes in living standards. These progressive changes are not towards humanitarian values, but towards the negligence in relations. Socialization helps human beings to get more advances in the morality. Somehow the values are declining 21st century globally considered as century of elders. It is shameful to abuse elders are showing negligence. However laws are there to protect, still the socialization starts through the families hence the responsibility on every people educate the future generation to be good human beings.

RIGHTS RELATED SCHEDULED CASTES /SCHEDULED TRIBES

India is a pluralistic society which has all the major religions of the world. The hierarchical social order in other words caste system was created over the centuries with a view to preserve the monopoly of social status, property and education by the high caste Hindus. Consequent upon the caste system, the property, education, freedom, social equality, economic opportunity and political power were denied to the weaker sections of Indian society. Hierarchical graded privileges on some sections of the population and inflicted a series of disabilities on others which continued from generation to generation. India is the second largest country of the world after and it has got roughly constitute 25 per cent of its total population scheduled castes and scheduled tribes. They are kept away from the mainstream of all social, cultural, religious, educational, economic etc. of existing practices of society for centuries together. They were denied the basic rights of human living. This was the vulnerable group who was living on the bottom line of society. India attained freedom in August, 1947 and adopted its own "Constitution of India" for its citizens. India was governed by this law of land. Constitution of India has protected the human rights of these sections of citizens by awarding certain privileges enshrined in the constitution. The various safeguards for scheduled castes and scheduled tribes in the constitution can be broadly classified under the four heads of

- (1) Social
- (2) Development and Economic
- (3) Political and
- (4) Other safeguards

CONSTITUTIONAL PROVISIONS FOR SCS/STS

The Constituent Assembly passed some of the provisions, like Article 46, which embodied the new policy, its messages of hope for millions of our citizens hitherto neglected. Out of

Article 46 flow all safeguards or weaker sections including Scheduled Castes and Scheduled Tribes”.

Article 46: Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and Other Weaker sections— The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation. The Constitution came into effect from the 26th January, 1950. The Constitution of India is the basic and supreme law of our country. It, however, governs almost all the aspects of our social life. It constitutes India into a sovereign socialist secular Democratic Republic and pledges to secure for the entire citizens, including Scheduled Castes and Scheduled Tribes, justice, liberty and equality. It is, therefore, certain measures in the form of Constitutional safeguards are enshrined in the Constitution of India for those who were deliberately deprived of justice, liberty and equality since time immemorial. The main objective of these safeguards was to level up, socially and economically backward classes, particularly the Scheduled Castes and Scheduled Tribes in as short time as possible. The policy of reservation to improve the socio-economic conditions of SCs and STs over a period of five decades has been a failure. But we have to admit that the reservation has come to stay in our society. It was in the past, it is, and it will remain. But the question is how to make it effective in order to bring the SC and ST to the level of other sections of society. The Preamble to the Constitution of India reveals the philosophy of the Constitution. It is as under: “We, the people of India, having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens— Justice: social, economic and political; Liberty of thoughts, expression, belief, faith and worship; Equality of status and of opportunity and to promote among them all fraternity, assuring the dignity of the individual and integrity of the nation. In our Constituent Assembly this twenty sixth day of November, 1949, do adopt, enact and give to ourselves this Constitution.” Several safeguards have been provided for the Scheduled Castes and Scheduled Tribes in India Constitution.

Article 340: Appointment of a Commission to investigate the conditions of Backward Classes—

(1) The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labor and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be made for the purpose by the Union or any State and the conditions subject to which such grants should be made, and the order appointing such Commission shall define the procedure to be followed by the Commission.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper. (3) The President shall cause a copy of the report so presented together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

Article 341: Scheduled Castes— (1) The President may with respect to any State or Union Territory, and where it is a State, after consultation with the Governor. Thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union territory, as the case may be.

Article 342: Scheduled Tribes

(1) The President may with respect to any State or Union territory and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

Article 366: In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say Schedule means a Schedule to this Constitution. Scheduled Castes means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under **Article 341** to be Scheduled Castes for the purposes of this Constitution; Scheduled Tribes means such tribes or tribal communities or parts or groups within such tribes or tribal communities as are deemed **under Article 342** to be Scheduled Tribes for the purposes of this Constitution. All these safeguards have, apparently, been provided to facilitate the implementation of the Directive Principle contained in Article 46 of the Constitution, which reads as follows: The State shall promote with special care the educational and economic interest of the weaker sections of the people, and, in particular of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

SOCIAL SAFEGUARDS Equality before Law: The State shall not deny to any person equality before law or the equal protection of the laws within the territory of India. Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth—

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them,

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to— (a) Access to shops, public restaurants, hotels and places of public entertainment; or

(b) The use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public.

(3) Nothing in this Article shall prevent the State from making any special provision for women and children.

(4) Nothing in this Article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes].

Article 16: Equality of opportunity in matters of public employment—

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this Article shall prevent Parliament from making any law prescribing, in regard to class or classes of employment or appointment to an office [under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favor of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State 4(A) Nothing in this Article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favor of the Scheduled Castes and the Scheduled Tribes which in the opinion of the States, are not adequately represented in the services under the State.

(2) Nothing in this Article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Article 17: Abolition of Untouchability — Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law

23(1) Traffic in human beings and beggary and other similar forms of forced labor are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

25(2) (b) Providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Untouchability and Atrocities There was no uniform Central Act for this purpose for the country as a whole. In pursuance of Article 17 of the Constitution, the Untouchability (Offences) Act, was passed by the Parliament in 1955 which came into force with effect from 1st June, 1955 repealing all the State enactments. The Central Act prescribed punishment for the practice of 'Untouchability', for the enforcement of any disability arising there from and the matters connected therewith. Ever since it came into force, it was felt that the Act was not serving its purpose and the punishment provided in it was few and inadequate. Therefore, the Protection of Civil Rights Act, 1955 was enacted in 1976 to re-name and amend the Untouchability (Offences) Act, 1955 with comprehensive amendments by making the punishments under this Act more stringent and offences non-compoundable. The machinery for the enforcement of this Act has been suitably strengthened by the setting up of special cells, special courts, mobile squads, provision of legal aid etc. The law to punish the untouchability offences as proclaimed under Article 17 of the Constitution took more than five years to arrive showing disregard to the urgency attached to it by the founding fathers of

the Constitution. Even the amendments of the Act after a period of 17 years, are not exhaustive. It is not possible to exhaustively catalogue all instances, of behavior which come within the ambit of 'untouchability'. One of the innovations of the Act is that every year the Central Government is required to place on the table of each house of the Parliament, a report on the measures taken by itself and by the State Governments in pursuance of the mandate contained in section 15(A)2 and (3) The enforcement of PCR Act in terms of cases registered, disposed of at different stages and levels from the police to the courts and convictions, is not adequate. Very few States have taken seriously the establishment of special courts as per clause (iii) of Section 15(A)(2), preferably mobile special courts. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 which was brought into force from 30.1.1990, is not very effective in spite of implementation machinery and special courts etc. This Act requires serious implementation including establishment of exclusive special courts with exclusive special judicial and investigative and prosecuting officers, all carefully selected for proven sensitivity to social justice and liberation from caste based.

Bonded Labour Article 23, prohibits traffic in human beings and beggar and other similar forms of forced labour. In pursuance of this provision the Bonded Labour System (Abolition) Act, 1976 was enacted after a lapse of 26 years in 1976, with a view to abolishing this evil practice and making the offences under this Act punishable. Majority of the bonded labour belong to scheduled caste and scheduled tribe communities. Under Centrally Sponsored Programme launched in 1978-79 grants aid is provided to the State Governments/U.T. Administration on matching basis, for identification, liberation and rehabilitation of the bonded laborers. The scheme envisages provision of rehabilitation grant up to ceiling limit of Rs. 10,000 per freed bonded laborer, half of which is given as Central share. The State Governments have been advised to suitably dovetail, the Centrally Sponsored Scheme with other anti-poverty and employment generation programmes so as to pool the resources available under different schemes in order to ensure effective rehabilitation of released bonded laborers. This Act is not adequate enough to identify and liberate all bonded laborers in the country particularly in the tribal areas. The Act requires amendments so as to provide more stringent punishment for the offences. Educational and.

Economic Safeguards For SCs/STs The various safeguards under this head as contained in, Article 15(4), 16(1)(4)(4A), 29(2), 46 and 335 are discussed below: 15(4) Nothing in this Article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and the scheduled tribes. 16(4) Nothing in this Article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State. 29(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Special Grants under Article 275: Article 275(1) provides that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of State such capital and

recurring sum as may be necessary to enable that state to meet the cost of such schemes of development as may be undertaken by the state with the approval of the Government of India for the purpose of promoting the welfare of scheduled tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that state. During the Eighth Five Year Plan Rs.54,000 lakh was released to the State Governments under this provision. The amount released during 1997-98, 1998-99 and 1999-2000 (upto Jan., 2000) was Rs. 25,000 lakh. A similar provision exists in the Article for paying such special grants to the States covered under the Sixth Schedule of the Consolidated Fund of India' Other Safeguards Article 330 Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People— (1) Seats will be reserved in the House of the People for—

- (a) the Scheduled Castes;
 - (b) The Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and
 - (c) The Scheduled Tribes in the autonomous districts of Assam.
- (2) The number of seats reserved in any State 6, or Union territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to the States 6 or by the Constitution (Eighty-first Amendment) Act, 2000 Subs. by the Constitution (Fifty-first Amendment) Act, 1984, s. 2, for sub-clause (b) (w. e. f. 16-6-1986.
- (3) Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of Scheduled Tribes in the said autonomous districts bears to the total population of the State].

Article 332: Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States—

(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, [except the Scheduled Tribes in the autonomous districts of Assam], in the Legislative Assembly of every State 10 (2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State. The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State. The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district¹³. No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district.

Article 334:

Reservation of seats and special representation to cease after 14[sixty years]— Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to—

(a) the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States; and

(b) the representation of the Anglo-Indian community in the House of the People and in the Legislative Assemblies of the States by nomination, shall cease to have effect on the expiration of a period of 14[sixty years] from the commencement of this Constitution: Provided that nothing in this Article shall affect any representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the then existing House or Assembly, as the case may be.

Article 335: Claims of Scheduled Castes and Scheduled Tribes to services and posts— The claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State. Provided that nothing in this Article shall prevent in making of any provision in favour of the members of the Scheduled Castes and Scheduled Tribes for relaxation in qualifying Special Officer/Commission.

Article 338: National Commission for Scheduled Castes and Scheduled Tribes— See the Constitution (Sixty-fifth Amendment) Act, 1990 under the heading Central Acts constituting National Commissions for Welfare of Scheduled Castes and Scheduled Tribes and Other Backward Classes. Originally Article 338 of the Constitution (amended in 1990) provided for a Special Officer known as the Commissioner for the Scheduled Castes and Scheduled Tribes to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution and to report to the President on their working. It was felt that a high level five-member Commission under Article 338 will be a more effective arrangement in respect of the Constitutional safeguards for Scheduled Castes and Scheduled Tribes than a single Special Officer. It was also felt that it was necessary to elaborate the functions of the said commission so as to cover measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socioeconomic development of the Scheduled Castes and Scheduled Tribes and to entrust to the Commission such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes and Scheduled Tribes as the President may decide, subject to any law made by Parliament and the Legislature of the States.

The builders of Indian Republic and founding fathers of our Constitutions had considered it necessary to provide specific safeguards and rights in the constitution for the uplift of Scheduled Castes (SC) and Scheduled Tribes (ST) communities in India. The Constitution of India provides for a number of safeguards for the Scheduled Castes and Scheduled Tribes which are of its unique features. Reservation is indeed the process of setting aside a certain

percentage of seats vacancies in educational institutions, government institutions and legislative institutions for the members of weaker sections in modern times.

RIGHTS OF PRISONERS

The law on the rights of prisoners has been an evolving one. It is a matter of utmost shame that a country like India doesn't have codified law on the rights of prisoners. There is also no comprehensive legislation to deal with prisoners rights and regulate their conduct while in jail. However, the judiciary of the country has given due recognition to the convicts and held their fundamental rights time and time again. In the absence of thorough legislation, it has managed to set precedents and principles upholding the various rights of prisoners that not only guide but also bind all the courts in India.

As emphasized earlier, the conviction of a human does not render him non-human. He still remains a human who should be treated like one. He should be given the basic human rights available to every man walking on the earth. But at the same time, he should not be treated as a free man with all absolute rights and luxuries. His freedom should be subject to certain limitations and legal restrictions. These restrictions, in addition, should be reasonable.

The apex court of the USA in the case of *Charles Wolff v. McDonnell* and the Supreme Court of India in its famous cases like *DBM Patnaik v. State of Andhra Pradesh* and, *Sunil Batra v. Delhi Administration* has emphatically stated that it must be realised that a prisoner is a human being as well as a natural person or a legal person. If a person gets convicted for a crime, it does not reduce him to the status of a non-person whose rights could be snatched away at the whims of the prison administration. Therefore, imposing any major punishment within the system of prison is conditional upon the absence of procedural safeguards.

The Supreme Court of India has been deliberating with the central and state governments since a long time to improve the deteriorating condition of the prisoners which is fundamental because of the overcrowding of prisons, lack of training facilities, personnel and poor infrastructure, etc. Therefore, it is mandatory to invoke the rights and constitutional safeguards of the prisoners. Such rights of, unless they are propagated and implemented in each corner and the entire perimeter of the prism, are a nullity and betrayal of human faith on the criminal justice delivery system.

Fundamental Rights

Fundamental rights form the core of human rights in India. They are the basic rights of the citizens which cannot be taken away under any circumstances. The law of the country also guarantees some of these rights to the prisoners too like Article 14, 19, 21. However, it cannot impose the fundamental rights in its full panoply to the advantage of the prisoners. Giving prisoners Right to Fair procedure forms the soul of Article 21. Levying reasonableness in any restriction is the essence of Article 19(5) and sweeping discretion degenerating into arbitrary discrimination is anathema for Article 14.

Right to Privacy

The Right to Privacy is one of the very significant rights available to the citizens of India. They form an intrinsic part of Right to Life and Personal Liberty under Article 21 of the Indian Constitution. They have also been made applicable to the prisoners and convicts through various judgements passed by courts over the years.

In India, however, this right is perhaps the most violated. The right to privacy in respect to search and seizure was first raised in the 1950s, where the apex court ruled that search and seizure cannot be seen as violate of Article 19 (1)(f) of the Indian constitution and a mere search by itself does not nullify or harm an individual's right to property. Even if search or seizure affected such right then its effect is temporary and is to be construed as a reasonable restriction on the rights of individuals.

Right to Privacy in recent times

The concept of right to privacy has evolved over the years. In recent time, its scope has been widened to benefit people in the most possible way. A distinction between physical privacy and mental privacy is also being drawn.

Right to Privacy of prisoners and their spouses

In *Rahmath Nisha v. Additional Director General of Prisoner and Others*, the accused was given 10 days leave to visit his wife. But, due to serious illness, his wife was transferred to the hospital in ICU by the time he reached home. However, the police escort that accompanied the accused refused to let him visit the hospital citing that permission has been granted to visit home only. The Madras Court held that the prisoner should be allowed to visit his wife in hospital and that the meeting between him and his wife should not be monitored. The court stated that when a prisoner is united with his wife, he might like to hold her the hands of his partner. It's natural that his emotions would find physical expression. Therefore, the right to privacy and dignity of the prisoners should be scrupulously safeguarded. It is also important that the conversation between the prisoner and his partner or spouse should go unmonitored.

Right against solitary confinement and bar fetters

Solitary confinement is a kind of imprisonment in which the convict or prisoner is kept in a different cell with little or no contact from other inmates. In addition to that strict monitoring is done on the habits and behaviour of the person. The idea behind solitary confinement is to teach notorious convicts discipline and provide safety to other inmates from them.

The validity of solitary confinement was considered by the Supreme Court in the famous case of *Sunil Batra v. Delhi Administration* wherein the honourable court highlighted that imposition of solitary confinement is only to be made in exceptional cases where the prisoner is of such violent or dangerous nature that his segregation becomes an utmost necessity. The court also observed that keeping prisoners in bar fetters day and night reduces them to the level of an animal and deteriorates their mental health. The courts, therefore, have presented strong resentment against solitary and stated its confinement as highly dehumanizing and

derogatory in nature. They have also held such confinements to be against the spirit of the Constitution of India.

Right to Life and personal liberty

The Hon'ble Supreme Court has repeatedly applied the rule of Article 21 in numerous cases and asserted its significance in several other. It has expanded the connotation of the word "life" given by Field J. in the much-known case of *Kharak Singh v. State of UP*. In the said case, the court ruled that the term "life" connotes more than mere existence like that of an animal. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body by the amputation of an arm or leg, or the putting out of an eye or the destruction of any other organ of the body through which the soul communicates with the other world. It can be said that right to live is not restricted to a mere animal existence. It connotes something more than just the physical survival of a being.

Right to live with human dignity

The right of a human being to live with dignity is protected by the constitution. This right is also given to the prisoners as their mere conviction does not render them inhuman. This right forms a significant part of right to life guaranteed under the constitution of India. The idea behind is that every person's life is precious and irrespective of the circumstances, he should be given a sense of dignity to help him continue living. The courts have enlarged the scope of Article 21 to include this right.

Right to health and medical treatment

Right to health is an important right. The Constitution of India incorporates provisions guaranteeing every individual the right to the highest attainable standard of physical and mental health. In a series of judgements, the highest court of the land has held that the right to health care is a crucial element of Article 21. Article 21 of the Constitution imposes an obligation on the State to safeguard an individual's life.

In the case of *Parmannd Katara v. Union of India*, the court held that a doctor working at a Government hospital is bound by duty to extend any type of medical assistance for preserving life. In fact, every doctor has a professional obligation of extending his services to the patients (be it anyone) with due diligence and expertise in order to protect his life. Therefore, any legal body cannot intervene to cause a delay in the discharge of obligations and duties cast upon the members of the medical profession. The court also reiterated in *Paschim Bengal Khet Mazdoor Samiti v. State of West Bengal*, that a government hospital cannot deny any patient the right to treatment on the grounds of non-availability of beds. Doing so would amount to a breach of Article 21 that highlights the 'right to life'. This article imposes strict obligations on the State to make available the necessary medical assistance to an aggrieved person as protection of human life is of utmost significance.

Right to a speedy trial

It is very well said that justice delayed is justice denied. Every prisoner has a right to a speedy trial irrespective of the crime he is convicted of. Speedy trial is considered as an integral part of the criminal justice delivery system. Once a person is accused, he must be subject to speedy trials so as to punish him from the crime he committed or absolve him from it, if not proven guilty. No one should be subject to long, pending and tiresome trials as it not only violates the rights of an individual but is considered to be the denial of justice altogether. The right to a speedy trial, therefore, has become a universally recognized human right. Moreover, the right to a speedy trial is also contained under Section 309 of the Code of Criminal Procedure.

Right to legal aid

Legal assistance plays a significant part in the life of an accused awaiting trial or any prisoner or convicts, for that matter. The 42nd Amendment to the Constitution (1976) of India incorporated services of free legal aid as Article 39A under the head Directive Principles of State Policy. Though this article is part of the directive principles of state policy and hence, not enforceable, the principles underlined therein are of utmost importance. It is incumbent upon the State to keep this article in mind while framing rules and regulations for prisoners, criminals or convicts.

The parliament has enacted the Legal Services Authorities Act in 1987 wherein it guaranteed legal Aid. It also directed various state governments to set up Legal Aid and Advice Boards, and frame schemes aiming to provide Free Legal Aid. This was done so that the Constitutional mandate of Article 39-A could be given an effect. If we look into the jurisprudence of Indian Human Rights, it can be said that legal aid is of wider dimension and it is available in civil, administrative or revenue cases other than just criminal cases.

In the case of *Madhav Hayawadanrao Hoskot v. the State Of Maharashtra*, the three-judge bench of the Supreme Court of India read Articles 21 and Articles 39-A along with Article 142 and Section 304 of CrPC together emphasized that the government of the country is under a duty to aid and provide legal services to the convicted or accused individual.

Right against Inhuman treatment

It is the right of every prisoner to be protected against any type of cruel or inhuman treatment. The Supreme Court of India in several cases has highlighted the harsh treatments faced by prisoners and directed state and prison authorities to check and regulate the same. The court also prohibited the use of instruments such as handcuffs, chains, irons and straitjackets in punishing the prisoners. Some other instruments of restraint are permissible but only under certain circumstances. These circumstances are mentioned hereunder:

- (1) Using instruments of restraint for precaution during the transfer of prisoners against escape, conditional upon the fact that it shall be removed while producing the prisoner before an administrative or judicial body.
- (2) If the medical officer permits the same on certain medical grounds;
- (3) In cases wherein it is difficult to prevent a prisoner from self-harm or damaging the property around, the director in consultation with the medical officer and after

reporting the higher administrative authority may order the prisoner to be put in instruments of restraint.

The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.

Right to Education

Right to education is a Fundamental Right and therefore it should be given to every citizen of the country. Along with education, it is compulsory that the right type of education should be imparted. In *Mohammad Giasuddin v. State of AP*, the court tried to regulate the manner of work and education provided to the inmates of the jail. It directed the state government to look into the nature of work and education given to the prisoners and check that the work provided is “not of a monotonous, mechanical, intellectual or like type mixed with a little manual labour...”. The court further stated the facilities of liaison through correspondence courses must also be given to the prisoners who are interested in doing higher or advanced studies. Moreover, basic learning such as tailoring, embroidery, doll-making should be extended to the women prisoners. In addition to that, the well-educated prisoners should be given the opportunities to engage in some sort of mental-cum-manual productive work.

Right to receive books/magazines

In *George Fernandes v. State*, the court took cognizance of the case wherein the Superintendent of the Nagpur Central Jail had fixed the number of books to be allowed to the inmates to be 12. However, the power to take such decisions was not vested in him, though being a superintendent he could disallow a book terming it as “unsuitable”. This was stated in consonance with the Bombay Conditions of Detention Order, 1951.

The court further added “all the restraints on liberty, that no knowledge, learning and pursuit of happiness is the most irksome and least justifiable. Improvement of mind cannot be thwarted but for exceptional and just circumstances. It is well known that books of education and universal praise have been written in prison cells.”

Right to publication

The Supreme Court held in a case wherein the prisoner was not allowed to read a scientific book that there was nothing in the Bombay Detention Order, 1951 that prohibits a prisoner from writing or publishing a book. It stated that the book prisoner wanted to read was merely a work of science, (“*Inside the Atom*”) and it could not be regarded as detrimental to public interest or safety as provided under the Defence of India Rules, 1962.

Prisoners do not cease to be human beings when put behind bars. The Supreme Court and many other courts of India have reiterated this position in several cases so that prisoners do not become a victim themselves. And are provided with a proper rehabilitative environment to help them improve and become better beings. It is incumbent upon the Central and State

governments to not only provide the prisoners with humane conditions for a living but also educate them about their rights so that it is not abused by the powerful inside the prison.

It could be said that the judiciary of the country has played a crucial role in safeguarding the rights of prisoners whenever the legislative and executive have erred. It has acted as the saviour of the convicts and upheld their fundamental rights time and time again. It has thoroughly exercised its powers through judicial activism and has repeatedly devised new remedies and tools to protect the human's right to life and personal liberty. However, much still needs to be done. In this regard, the wide circulation of human rights' available to prisoners, vast publicity of prisoners right in media and corner to corner surveillance in prisons could be some of the keys for upholding the rights of prisoners and ensuring their safe space in the prison.

MINORITY RIGHTS IN THE CONSTITUTION OF INDIA

People sharing culture, a language, a system of beliefs and traditions are called an ethnic group. In the 19th century, some of the ethnic groups came together and proclaimed their nation-states over the territories they live on. Some ethnic groups inhabiting the same territories are quite different and didn't want to change their language, religion or tradition or to unify the nation that had been formed and some groups were forced to change their nationalities due to shifting state borders. These groups may be culturally different for the mainstream society but they want to preserve their identity. They are a set of people who are less in number and evidently distinct and unique from the majority.

In India, we have multiple religions, cultures, traditions and heritage. There are 8 Major religious belief systems with their distinct heritage and culture. From Kashmir to Kanyakumari there are 22 official languages with more than 800 dialects available. In a tight-knit democratic society like India, minority groups are respected for being different and although they enjoy minority rights in community with others belonging to a minority group is an individual choice.

Minority word comes from the Latin word 'Minor' and joins with the 'ity' suffix to make meaning of 'small in number'. According to the United Nations, 'Any group or community which is socially, politically and economically non-dominant and inferior in the population are minorities.' The constitution of India has not defined the word 'minority' anywhere.

Historical background behind the protection of minority rights under the Constitution

In the past, the invasions in Ancient and Medieval India generated minority communities like Muslims, Anglo- Indians, Christians etc. India became a conglomeration of Minorities because of migration of communities fearing religious persecution like Parsis, Divide and rule policy of British colonial power etc. The objective resolution moved by Pandit Jawaharlal Nehru in the Constituent Assembly on 13th December 1946, unanimously adopted by Constituent Assembly on 22nd January 1947 where it was decided that a safeguard mechanism will be adopted for minority communities, depressed backward classes and tribal areas of the nation.

The Constitutional drafting committee had formulated various provisions and laws in 1948, under the name of “Special Provisions Relating to Minorities” in part XIV and numbered in 292-301 article. The provisions for special rights of minorities were modified substantially and finally, no special rights except cultural and educational were concerned to minorities. The constitution which was adopted by the Constituent Assembly of India in November 1949 and came into force on 26th January, 1950 with no reservation of seats in the Legislative bodies and public services for religious minorities as originally planned. The religious minorities from the purview of group-preference requirements were excluded because the Constituent Assembly held that control to such protections was reliable only for the development of backward and not to conserve the distinct cultural personalities.

Minorities faced various problems such as problems of getting protection, problems of communal tensions and riots, the problem of lack of representation in civil service and politics and the problem of separatism. Other problems are failure to stick to secularism, problems relating to the introduction of a common civil code.

Minority rights in India protect people from being discriminated against on grounds of their ethnic cultural, linguistic or religious identity. Individuals belonging to minorities must be able to learn and use their language, use their own names, preserve and freely express their identity. Minority rights, therefore, guarantee equality before the law, protection of basic freedom, non-discrimination and protection against violence on the grounds of identity, participation in political and public life, possibilities for cooperation with other communities and organisations within states and across borders. Rights of Minorities are the inherent part of human rights. They promote tolerance and respect for diversity. Their aim is to ensure that minorities and majorities live peacefully together and support each other in building a better future.

Articles under Constitution of India relating to the protection of minority rights

According to Article 14 of the Indian constitution, we need to prohibit unequal treatment and we should demand such laws which can afford equal treatment. Article 14(1) states Equality Before Law which states that if anyone irrespective of the Prime Minister or a common man does an act which is not legally justified then law treats everyone the same and gives the same responsibilities. The example of this is the Lady Justice who is blind-folded that means everyone is at the same pedestrian before the law.

There are 2 Articles under cultural and educational rights In the Indian Constitution – Article 29 and Article 30. Article 29 of the Constitution states the protection of interests for minorities. Its clause (1) states that any group living within the jurisdiction of India is entitled to preserve and promote its own language, script or literature and culture. Clause (2) of it prohibits denial of admission to educational institutions which are aided by the state on the ground of race, caste, religion or language protection.

This provision protects the rights of citizens irrespective of his/her belonging community. Article 30 is one of the very important to the minorities of India. Article 30(1) gives a provision to the minority communities to establish and administer an educational institute of their choice for protection of their culture and heritage. Sub clause 30(1A) of it has strengthened the minority educational institutions in case of compulsory acquisition. The state has to keep in mind that the amount which is needed for the acquisition of the property should not restrict the right guaranteed by the clause (1). According to Article 30(2), the government should not discriminate against any educational institution run by any minority group regardless of religion or the language, while giving aid.

Opposed to the traditional view Article 29's scope is wider than Article 30 because Article 30 deals with only 2 kinds of minority that are religious and linguistic and Article 29 deals with any citizen of Indian citizens including the majority. Article 29 can only be applied to the citizens of India while Article 30 can be applied for both citizens as well as non-citizens of India. The Supreme Court has ruled in *S.K. Patro v. State of Bihar*, that a minority community can only claim the privileges under Article 30 must be a minority person who is residing in India. Foreigners who are not resident or nor a citizen in Indian do not come within the scope of Article 30.

Reservation in favour of minority community

Guard of rights of the religious and ethnic minorities is the mainstay of India's secular values. Article 30 of the Indian constitution is one of the many provisions that promote reservation of minority rights. Article 30 promises the rights of minorities "to establish and administer educational institutions" which helps the Govt. to establish policies regarding the aid to minority educational institutions.

Important case laws related to this are-

In *St. Stephen's college v. University of Delhi*, the preference given to Christian students' college was challenged. Here, it is decided that in the selection procedure half of the seats will be reserved for the minority community and the rest half will be on merit.

But this judgement was overruled by *TMA Pai Foundation* case. The Supreme Court held that the unaided institutions since they do not receive any aid from the state out of the state fund are not subject to the admission procedure established by the state. It meant that they can follow their own admission procedure including their own admission test provided the admission is based on merit, an open and transparent system. Similarly, they are not bound by the fee structure provided by the state, provided do not collect any capitation fees. The court has granted the power to the state to fix quotas for minority students. This case drew distinction between aided and unaided governmental regulation on private institutions.

In *P.A. Inamdar v. State of Maharashtra*, the Supreme Court held that the policy of reservation to admit students is not applicable to minority institutions. The state has no power to reserve seats in educational institutions. The admission process can be based on an admission test or merit.

In *Azeez Basha v. Union of India* (Aligarh Muslim University Case), the Supreme Court held that an educational institution, not been formulated by the minority community then they have no right to direct it. AMU is not a minority institution as established by Act of Parliament. The term 'established' and 'administered' have to be read in consideration. Status of minority to AMU struck down in *Dr. Naresh Agarwal v. UOI* case.

Miscellaneous articles in Indian Constitution

Some articles in the Indian Constitution which openly or silently speak about the rights and privileges of minorities in India.

Article 38 ensures that the state to secure a social order for the promotion of welfare of people permeated by justice- social, economic and political and to minimise inequalities in income, status, facilities and opportunities.

Article 39 states free legal assistance and equal justice of various dimensions. It directs the state to secure livelihood for all the citizens, equitable distribution of material properties for the common good. It also gives provision for the prevention of concentration of wealth, equal pay for equal work and for giving opportunities, facilities to the children for the development.

Article 46 is about Gandhian principles. It provides that the state may take necessary action to promote educational and economic advancement of the weaker sections of the people and to protect them from social injustice and exploitation.

Article 347 provides power to the President to officially recognize a language, which is being spoken by the substantial population.

Articles 331, 333, 334, 336 and 337 have the special provisions of guaranteeing representation of Anglo Indians in Union and State legislatures.

Article 350(B) gives provision for appointing a Special Officer for linguistic minorities.

A history of clashes, an active fertile ground for communal violence and difference-making it vulnerable for minorities on different grounds and opportunities in India. Thus, there is a need to preserve their identity and safeguards to the minority rights on social, economic and political fronts. The Constitution of India provides many ways through which the minorities protect their rights. Also, it offers special rights and freedoms to the minority community to conserve its democratic character. But in reality, minorities give birth to various problems.

For instance, India has declared itself as a secular country. So, the spirit of our constitution is secular. All political parties in India claim to be secular but in practice, none follows it. In India, the political parties play a major role in politicising a religious issue for vote banks. Though there are many problems like this the solution has to be faced with understanding. Still, the court is not able to define minority and have been for interpretation of court according to the circumstances. Art. 30 & Art. 29 are pretty wide in scope and they need to

give complete choice to the minority section to establish and administer any institution as per their understanding.

RIGHTS OF PERSON LIVING WITH HIV/AIDS

Acquired Immune Deficiency Syndrome (AIDS) is a serious disease whose cure has not yet been discovered, however, it can be prevented. With the misconception of it being a communicable disease, society ostracizes AIDS patients with different kinds of stigmas. Sometimes, even family members and blood relatives corner the patients. Every human being has some unalienated rights and so do AIDS patients. Just because someone acquires a disease, it does not imply that he/she cannot enjoy that right. Even the Supreme Court justifies the rights of AIDS patients through landmark judgements.

In the case of Mr. 'X' v. Hospital 'Z', the Supreme Court talks about the various rights of AIDS patients from various perspectives. The main issues that were dealt by the court were whether (i) right to marry is an absolute right, (ii) AIDS patients have a right to marry and right to privacy, (iii) the right to health takes precedence over the right to privacy, (iv) Medical practitioners have an obligation not to disclose the AIDS disease and identity of the patient, etc. The issues on privacy were dealt with in detail in other landmark judgments like Justice K.S. Puttaswamy and Ors. Vs. Union of India (UOI) and Ors.

The Constitution of India

The Constitution of India, 1950, which is the law of the land guarantees every citizen equal and unbiased justice, liberty, and equality. The following rights are guaranteed to AIDS patients under various provisions of the Constitution.

Article 14 of the Constitution guarantees the right of equality to every person which includes treatment for HIV/AIDS patients.

Articles 15 and 16 protect patients against any forms of discrimination.

Article 21 of the Constitution protects their right to life and personal liberty which also includes their right to privacy.

The Directive Principles of State Policy lays down certain duties of the states towards AIDS patients. **Article 38 and 39** talks about the duty of the state to promote social welfare and secure them with social and economic resources respectively. However, these duties are not enforceable in the courts of law.

Article 39 of the Constitution asks the states to ensure all the citizens including the HIV/AIDS patients have an adequate means of livelihood.

Article 42 lays down a duty upon states to make provisions for securing just and humane conditions of work.

Indian Medical Council Act, 1956 (Professional Conduct, & Ethics) Regulations, 2002

The Medical Council of India entrusts upon certain duties that have to be observed by the doctors towards HIV/AIDS patients in Indian Medical Council Act, 1956 (Professional Conduct, & Ethics) Regulations, 2002. These are given as follows:

Duty to take care and informed consent from the patient before attending to any medical procedure.

Duty to disclose to the patient the risk associated with the treatment.

Duty to inform about options available and their benefits.

Duty to warn the patient of the harm and precautions.

Duty to admit a patient in an emergency without consent.

The duty of the physician to not abandon his patient for fear of contracting the disease himself.

Immoral Trafficking Prevention Act, 1986

Immoral Trafficking Prevention Act, 1986 deals with sex workers and work-related issues in India. The Act lays down the provision of conducting compulsory medical examinations for the detection of HIV/AIDS. It also states provisions for compulsory testing of the same.

HIV/AIDS Bill, 2007

This Bill is a joint initiative of the government and civil society. It mainly deals with the status and protection of HIV/AIDS patients in all spheres, be it in their domestic spaces or in society. It makes sure that equal rights and opportunities are provided to all of the patients. The Bill aims at providing equal and unbiased opportunities in the areas of education, employment, travel, insurance, healthcare, residence and property, and so on.

The Bill asks for voluntary, free, and informed consent from the patients before their medical history or information is collected and used for research purposes. On the counterpart, the AIDS patients are also imposed with the duty to not spread the disease further through potential means. Hence the Bill confirms the confidentiality clause, but in necessary circumstances, the information or medical history of the patients can be revealed. AIDS patients have access to robust and universal access therapies for prevention, care, and support. The Bill protects risk-reduction strategies from civil and criminal liabilities, as well as harassment by law enforcement. This Bill also provides provisions related to the right to information and education relating to health and the protection of health from the State. It lays special focus on women and children. The bill requires the state to implement IEC programs that are evidence-based, age-appropriate, gender-sensitive, non-stigmatizing, and non-discriminatory.

The Bill has provision for the appointment of a health ombudsman in every district so that easy and quick access to health services could be provided to all persons. Redressal of complaints and a platform to internal complaint mechanisms are also provided. There are fast-track courts that deal with the complaints at a much faster rate and provide creative redressals. The Bill also establishes a link between sexual violence and the victims being prone to the disease more than others, hence it provides for counseling and treatments for

sexual assault survivors and asks the states for the setting up of sexual assault crisis centers. It also recognizes certain rights for children and women who are in care homes, and dormitories, as due to their social, and economic conditions they find themselves more prone to AIDS.

Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Bill, 2010

Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Bill, 2010 contains stringent provisions to curb discrimination against HIV/AIDS patients. The Act penalizes the act of discriminating against any person infected with AIDS. It also punishes people who disseminate such information about the patient which would lead to propagating hatred against the infected person.

According to the proposed bill, the screening process or testing could not be an essential requirement for any kind of employment. Even the patients could not be denied access to public places, education, or any form of enjoyment due to the same reason. Even in the workplace, proper measures must be taken in order to make a healthy and non-discriminatory space for the patients to work.

The Bill also makes a safeguard provision against a minor who hasn't attained the age of 18 years and any women who are evicted, and they possess the right to live in a shared property. In the aim of deterring rampant victimization of HIV/AIDS patients, the medical costs would be taken into consideration when settlement for maintenance is calculated.

The Bill also says that no one can be forced to take an HIV test. Proper counseling must be accompanied by detailing out the pros and cons before that person goes into the stage of making the choice. The consent must be taken voluntarily, and it must be informed. Under no circumstance can a patient be asked to reveal his status, with an exception of the courts asking to do so.

National Policy on HIV/AIDS and the "World of Work" Policy

The Ministry of Labor & Employment has formulated the "World of Work" and the "National Policy on HIV/AIDS" at the 43rd Session of the Standing Labor Committee. This Policy was developed by the Ministry of Labor & Employment after consultations with ILO (International Labor Organization), NACO (National Aids Control Organization), and Social partners. The policy aims at creating awareness about AIDS alongside working on encouraging actions in order to prevent the spread of AIDS. It also aims to make the workplace supportive and encouraging of suffering patients. The objective of the policy is to curb the stigmas involved with this whole disease and bring in an atmosphere of equal treatment and opportunities at the workplace. It aims to create an open space for the victims of these social stigmas and discriminations and prevent the spread of HIV amongst co-workers and make people aware of the issues regarding the same.

Persons with HIV infection can work as long as they are fit. If there is a test conducted, the person can wish to remain anonymous throughout the process. A special, written and informed consent is required when the research centers come in to collect the medical reports of those patients. No other than professional nurses and qualified authorities can conduct the tests and perform research on them.

The other legislation, policies, and agencies that protect HIV/AIDS patients

Antiviral Therapy Guidelines for HIV-infected Adults and Adolescents including Post-exposure.

Condom Promotion by SACS – Operational Guidelines.

Data Sharing Guidelines for HIV Care and Treatment in Infants and Children, Nov 2006.

Drugs and Cosmetic Act, 1940.

Goa, Daman, Diu Public Health Act, 1985.

Guidelines for HIV Testing, March 2007.

Guidelines for Network of Indian Institutions for HIV/AIDS Research (NIHAR).

Guidelines for Prevention and Management of Common Opportunistic Infections.

Guidelines for Setting up Blood Storage Centres.

ILO Code of Practice on HIV/AIDS and the World of Work.

Indian Penal Code, 1860.

Joint Statement of Commitment on HIV/AIDS of the Central Trade Unions in India.

Juvenile Justice (Care and Protection of Children) Act, 2000 and 2006.

Link Worker Scheme(LWS) Operational Guidelines.

Maharashtra Protection of Commercial Sex Workers, Bill, 1994.

Medical Termination of Pregnancy Act, 1971.

NACO Ethical Guidelines for Operational Research.

NACO IEC Operational Guidelines.

NACO Research Fellowship-Scheme Under NACP-III.

Narcotic Drugs and Psychotropic Substances Act, 1985.

National AIDS Control and Prevention Policy (NACPC).

National AIDS Control Organization (NACO), Department of AIDS Control, Policies and Guidelines.

National AIDS Prevention and Control Policy.

National Blood Policy (NIHFW)National AIDS Control Programme (NIHFW).

National Guidelines on Prevention, Management & .Control of Reproductive Tract Infection

National Guidelines on Prevention, Management & Control of RTI including STI.

National Human Rights Commission.

National Policy on HIV/AIDS and the World of Work.

Procurement Manual for National AIDS Control Programme (NACP-III).

Standards for Blood Banks and Blood Transfusion Services.

State AIDS Control Societies.

Suppression of Immoral Traffic in Women and Girls Act, 1956.

Surveillance Operational Guidelines Targeted Intervention for Migrants – Operational Guidelines Targeted Interventions for High-Risk Groups (HRGs).

Targeted Interventions for Truckers – Operational Guidelines
Voluntary Blood Donation – An Operational Guidelines.

The Indian Employers' Statement of Commitment on HIV/AIDS.

Young Persons (Harmful Publications) Act, 1956.

Legal provisions in international conventions

The United Nations Declaration of Human Rights

The United Nations, with time, has come up with a lot of steps in order to provide equality and human rights to all individuals including AIDS patients. The United Nations Declaration of Human Rights provides the right to equality to all human beings including AIDS patients. It also lays down certain provisions dealing with equal opportunity of work, personal liberty, opportunity, and security. Various conventions aim at eliminating discrimination and stigmas related to patients' rights, especially AIDS. Everyone including HIV positive persons has the right to work and take part in the cultural and social life in the community, and be able to enjoy art and share scientific advancement. UN conventions time and again have objectively worked on all persons including the AIDS patients to be treated equally before the law and are entitled to equal protection by the law. The International Community is always searching for various measures in order to protect HIV/AIDS persons. This lays down the fact that not only in India but also in various other countries AIDS patients find it hard to avail themselves of the same rights and opportunities.

The Joint United Nations Programme on HIV/AIDS (UNAIDS)

The guidelines provided by The Joint United Nations Programme on HIV/AIDS (UNAIDS) have provided all the grounds on which rights of HIV-affected people are recognized. But certain factors must be considered after all these efforts like that of penalized people and sex workers who inject themselves with drugs, criminalizing acts like men having sexual intercourse with other men (MSM), or transgender people. It also drives them away from health and social services that could protect them because they fear criminal sanctions. It also lends legitimacy to discrimination and social stigmas that increase risk-taking behavior because they are usually more prone to be victims of sexual violence those tabooed populations will hesitate in accessing justice systems because of the fear of being prosecuted and being discriminated against while appointing them in jobs. Hence, it defeats the whole purpose of the policy as people are already stigmatized or hesitant to interact. or come under the umbrellas of policymakers to design workable HIV programs. Therefore, it could be established that marginalizing or criminalizing the conduct of the vulnerable stakeholders not only violates their human rights but also deteriorates their health but presses the bigger purpose of the conventions and enactments. An overview of all the Rights available to AIDS patients.

Legal provisions under Indian law- Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (Prevention and Control) Act, 2017

The Indian Parliament has passed the Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (Prevention and Control) Act, 2017 that recognizes and talks about the rights of HIV/AIDS persons. This Act establishes antiretroviral therapy as a legal

right of HIV/AIDS patients and states that “every person in the care and custody of the state shall have right to HIV prevention, testing, treatment, and counseling services.” This act also asks the states to provide treatment that shall be accessible and with management centers. It also talks about measures that could be taken by the states to curb the issue of stigmatization of the stakeholders as explained in the following points.

I) Right to Treatment

This Act provides a special right to HIV/AIDS persons regarding treatment. This Act, in addition to providing treatment, specifies the treatment of Antiretroviral Therapy (ART) and holds governments accountable for providing it. The following provisions are crucial in this regard.

Section 13 states that the Central Government and State Government, as the case may be, shall take all such measures as it deems necessary and crucial for the prevention of the spread of HIV infection or AIDS in accordance with the guidelines.

Section 14 states that the measures to be taken by the Central Government or the State Government under section 13 shall include the measures for providing, as far as possible, diagnostic facilities relating to HIV or AIDS, Antiretroviral Therapy, and Opportunistic Infection Management to patients living with HIV or AIDS. Further, the Central Government shall issue necessary guidelines in respect of protocols for HIV and AIDS relating to diagnostic facilities, Antiretroviral Therapy, and Opportunistic Infection Management which shall apply to all persons and shall ensure their wide dissemination.

2) Confidentiality

According to Section 8 of the Act, Notwithstanding anything contained in any other law for the time being in force:

(i) No person shall be compelled to disclose his HIV status except by an order of the court that the disclosure of such information is necessary for the interest of justice for the determination of issues in the matter before it;

(ii) No person shall disclose or be compelled to disclose the HIV status or any other private information of another person imparted in confidence or in a relationship of a fiduciary nature, except with the informed consent of that other person or a representative of such another person obtained in the manner as specified in Section 5, as the case may be, and the fact of such consent has been recorded in writing by the person making such disclosure:

Provided that, in case of a relationship of a fiduciary nature, informed consent shall be recorded in writing.

(2)The informed consent for disclosure of HIV-related information under clause (ii) of subsection (1) is not required where the disclosure is made:

(a) by a healthcare provider to another healthcare provider who is involved in the care, treatment, or counseling of such person, when such disclosure is necessary to provide care or treatment to that person;

- (b) by an order of a court that the disclosure of such information is necessary for the interest of justice for the determination of issues and in the matter before it;
- (c) in suits or legal proceedings between persons, where the disclosure of such information is necessary for filing suits or legal proceedings or for instructing their counsel;

3) Right against discrimination and Right to Employment

Section 3 of the Act provides that no person shall discriminate against the protected person on any ground including any of the following, namely:

- (a) the denial of, or termination from, employment or occupation, unless, in the case of termination, the person, who is otherwise qualified, is furnished with-
 - (i) a copy of the written assessment of a qualified and independent healthcare provider competent to do so that such protected person poses a significant risk of transmission of HIV to another person in the workplace, or is unfit to perform the duties of the job; and
 - (ii) a copy of a written statement by the employer stating the nature and extent of administrative or financial hardship for not providing him reasonable accommodation;
- (b) the unfair treatment in, or in relation to, employment or occupation;
- (c) the denial or discontinuation of, or, unfair treatment in, healthcare services;
- (d) the denial or discontinuation of, or unfair treatment in, educational, establishments and services thereof;
- e) the denial or discontinuation of, or unfair treatment with regard to, access to, or provision or enjoyment or use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public or customarily available to the public, whether or not for a fee, including shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing ghats, roads, burial grounds or funeral ceremonies and places of public resort;
- (f) the denial, or, discontinuation of, or unfair treatment with regard to, the right of movement;
- (g) the denial or discontinuation of, or, unfair treatment with regard to, the right to reside, purchase, rent, or otherwise occupy, any property;
- (h) the denial or discontinuation of, or, unfair treatment in, the opportunity to stand for, or, hold public or private office;
- (i) the denial of access to, removal from, or unfair treatment in, Government or private establishment in whose care or custody a person may be;
- (j) the denial of, or unfair treatment in, the provision of insurance unless supported by actuarial studies;
- (k) the isolation or segregation of a protected person;
- (l) HIV testing as a prerequisite for obtaining employment, or accessing healthcare services or education or, for the continuation of the same or, for accessing or using any other service or facility;

Provided that, in case of failure to furnish the written assessment under subclause (i) of clause (a), it shall be presumed that there is no significant risk and that the person is fit to perform the duties of the job, as the case may be, and in case of the failure to furnish the written

statement under sub-clause (ii) of that clause, it shall be presumed that there is no such undue administrative or financial hardship.

Evolution of right to privacy in India

Regardless of the fact that India passed and implemented the Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome (Prevention and Control) Act, 2017 which makes provisions about keeping the patient's history confidential, however, it is through the landmark judgments that India recognized the right to privacy. Earlier in the cases of *Kharak Singh v. the State of U.P.*, *Gobind v. State of M. P.*, *Malak Singh v. State of Punjab & Haryana*, and the *Auto Shankar* the court did identify the right to privacy emanating from Article 21 of the Constitution of India, little was talked about the implementation and challenges. In this section, we further analyze the landmark cases that gave the right of privacy to AIDS patients.

Even though there are no comprehensive laws on the rights of AIDS patients in India, the judiciary over the years has done a magnificent job in interpreting their rights through landmark cases. The issues that took up a lot of time to decide on were whether AIDS patients have a right to privacy regarding their HIV positive status, whether they have a right to marry and whether that right is absolute or not, and whether doctors have a legal obligation to disclose the HIV positive status to the concerned person and so on. The Apex Court of India has timely dealt with such questions and came up with appropriate and creative solutions.

In April 2017, the government through Bills stressed equality among people and equal opportunity at work and other things. It aimed to cancel out discrimination at the workplace, and provide that even an AIDS patient has the right to employment. It tries to promote the right of the dignity of all human beings and asks to curb the stigmas already associated with it. Everyone including AIDS patients must be treated with equality, and the law tries to cast the same notion.

The judgments and laws also implicitly remind Indian legislators that laws dealing with divorce in India, such as the Hindu Marriage Act, 1955, the Indian Divorce Act, 1869, the Special Marriage Act, 1954, and the Parsi Marriage and Divorce Act 1936, need to be amended to explicitly include AIDS as one of the grounds for divorce. Such amendments are needed as it also provides rights to the innocent spouses who have a higher risk to get affected by the infection.

LGBT- RIGHTS

A section of society that is mostly sidelined and unheard is the LGBT section. LGBT people are a minority but have equal constitutional rights. However, their right to equality and equal treatment in society is violated on a regular basis. Not only does society as a whole treat them differently, but so does the state machinery. They are frequent victims of human rights violations. They have made serious strides for their acceptance. The previous decade was the decade of LGBT rights. Around the world, LGBT human rights are coming into mainstream

focus. Many were visible in public and in law courts demanding their rights. As a result, various advances are made in many countries regarding this. When it comes to India LGBT rights have been a contentious issue for many years. After the landmark judgment of 2018 by the Supreme Court, the sexual minorities are finally a step closer to living a dignified life in society. Even though the ruling has been in effect for three years, they continue to fight for their rights. Before proceeding with the rights and protections available for LGBT, let's define who they are and what are their problems in our society.

What is LGBT?

The initial for Lesbian, Gay, Bisexual, and Transgender is LGBT. Activists began to use this initial in the US from 1988. Sometimes it's also said to be LGBTQ for which Q stands for those who are identified as Queer or are questioning their identity. These initials are combined to form LGBTIQ (7) or LGBT+. The LGBTQ are distinct groups of gay culture. These people are usually underrepresented or are left out in various researches.

Homosexuality is the sexual or emotional attraction towards the same-sex person [15]. An ancient diplomatic material – Arthashastra – does not sanction homosexual intercourse. It was treated as an awful minor offense. Within Manusmriti lesbianism was a serious offence and had severe punishments. The Shariat law of Muslims also treats homosexuality as a serious offense. History says that it was the 18th century British rule that criminalized and prohibited homosexual relations in India under section 377 of IPC saying that it's against the order of nature.

There are several arguments raised against IPC Section 377. These arguments state that the section abridges human dignity. The constitution of India makes it mandatory to provide equality to all and so it is the right of everyone including the LGBT to express their views, wishes, and choices. The section fueled the issue of non-acceptance of the LGBT people which was prevalent since long. It creates a barrier to the community's development and country's economic growth.

Criminalization violates the basic fundamental rights of LGBT people as a citizen who is abiding by the Indian constitution.

Article 14 provides the right to equality. It states that no one should be denied equality before the law and equal protection of law/

Article 15(1) and 20 prohibits discrimination of a person on any grounds like sex, religion, race, caste, or place of birth. It is the discrimination on the basis of sex that the LGBT section lacks educational and job facilities and is denied equal pay for equal work. The Indian constitution states that although the term 'sex' refers to male and female, it is broad enough for sexual orientations to include in it.

Article 19 allows this freedom of speech and expression to all the citizens

Article 21 provides the right to life and private liberty which encompasses the right to privacy. The Indian Constitution does not expressly grant the right to privacy as a fundamental right, but it has been emphasized from time to time by the Supreme Court in some cases, so it is considered to be in the vicinity of fundamental rights. As a result, the state's right to privacy must not be infringed upon.

LGBTQIA+ community

Apart from facing regular discrimination and harassment at the workplace, there are some other reasons also to substantiate that the present employment laws are not inclusive of the LGBTQIA+ community.

As essentially employment and labour laws touch various aspects of employment such as employment benefits, terms and conditions, gratuity benefits, insurance, anti-discriminatory policies, maternity benefits etc, discussing each in detail is beyond the scope of the article. However, some of the points are discussed below:

i) Workmen's Compensations Act, 1923

Although Section 2 of this act provides a comprehensive list of dependants, but all these terms are defined only in the reference with the heterosexual families.

Further, it's very essential to define the "dependants" because dependants are entitled to the monetary benefit. Under the worker compensation insurance, it is mandatory for every employee to nominate at least one dependent. Therefore the term "dependants" must be redefined in the context of same-sex unions and LGBTQIA+ families to provide them equal incentives in employment as available to a heterosexual individual.

ii) Payment of Gratuity Act, 1972

The Payment of Gratuity Act, 1972 requires the employer to nominate people so that if in case the employer dies, then the gratuity benefits are conferred to the nominee. But for the purpose of this Section 2(h) of the act defines the term "family" which includes spouse, children, dependent parents and any adopted child. Therefore, the current definition of "family" eliminates the possibility of recognising LGBTQIA+ family from its ambit.

iii) Factories Act, 1947

The Factories Act of 1947 is structured on a protectionist approach and lays down various restrictions concerning the employment of women such as regulations of limiting their work hours from six to seven among many others. So, the current rules and regulations fail to recognize people not fitting in traditional notions of the gender binary.

The provisions which are confined to the gender binary exist not only in these discussed laws but extend across a range of other employment and Labour laws as well.

Maternity Benefits

At present Maternity Benefit Act of 1961 provides maternity leaves and benefits only to the cis-gendered women who give birth, adopt or rely on surrogacy to have a child. Essentially speaking there are two implications of this law.

Firstly, it reiterates the same archaic ideas and notions that it is the sole responsibility of the mother to take care of and nurture the child while the father can be waived off this duty. Secondly, it does not take into cognizance the fact that there can be a possibility of alternate families such as the LGBTQIA+ families.

Therefore it is essential that the language of this law must be gender-neutral so that even LGBT+ families can also have access to parental benefits and further it can also serve as a progressive step in the direction to eliminate sexual biases reinforced by the maternity benefit legislation.

It is submitted that although the landmark 2018 court ruling and 2014 NALSA judgment were a huge leap in the advancement of LGBT+ rights movements in India. But still, the LGBT people in India are not equal and don't have the same rights as those available to a heterosexual person. Further, they are still subjected to violence, discrimination in all spheres of life.

It is very important to educate people about LGBT rights. Human rights are natural rights which are inalienable, indestructible and are conferred upon everyone since birth. It is essential that people take note of the fact that homosexuals are not sick, they are not aliens, their sexual orientation is perfectly in tune with the dictate of nature.

LGBTQ rights should be recognised as part of human rights. Non Recognition of same-sex marriages, not allowing adoption, guardianship, surrogacy, IVF, not having access to safe and LGBT+ inclusive schools, colleges and workplaces are all violative of Article 14, 15, 19, 21, 29. Further, discrimination solely on the grounds of sexual orientation violates Article 14, 15, 21 in relation to Army, Navy, Air force Act.

The universal law of Human Rights states social norms, custom, culture or traditions can never be a valid justification to suppress another individual from asserting his/her fundamental and constitutional rights.

If we start justifying everything on the basis of cultural views, societal values and public policy then there would have been no progressive legislation enacted in our country and we would have never been able to eliminate the social evils of child marriage, Sati, dowry, and infanticide etc.

So, it is essential that the government must wipe away its conservative nature and should take concrete steps to eliminate the stigma, discrimination and abuse surrounding the LGBTQIA+ people. It is high time the government should formulate new laws or amend existing laws on marriage, adoption, guardianship, inheritance educational institutions, employment, healthcare services etc for education, social security and health of LGBT+ people with special focus to Transgender Persons.

It will lead to greater inclusiveness and will help in bringing the LGBTQIA+ into the mainstream of society and can go a long way in ‘transforming our nation sustainably into an equitable and vibrant knowledge society’

Lastly, I will conclude this article by saying that until and unless the government gives the LGBTQIA+ people in India an equal status, just and the fair struggle for social recognition by LGBT+ will go on.

Unit-4

HUMAN RIGHTS MOVEMENTS

Unit IV: Human Rights Movements: Peasant Movements (Tebhaga and Telangana) – Scheduled Caste Movements (Mahar and Ad-Dharmi) – Scheduled Tribes Movements (Santhal and Munda) – Environmental Movements (Chipko and Narmada Bachao Andolan) – Social Reform Movements (Vaikom and Self Respect).

X - X - X

Peasants' movements

The peasants suffered from high rents, illegal levies, arbitrary evictions and unpaid labour in Zamindari areas. In Ryotwari areas, the Government itself levied heavy land revenue. The overburdened farmer, fearing loss of his only source of livelihood, often approached the local moneylender who made full use of the former's difficulties by extracting high rates of interests on the money lent. Often, the farmer had to mortgage his hand and cattle. Sometimes, the moneylender seized the mortgaged belongings. Gradually, over large areas, the actual cultivators were reduced to the status of tenants-at-will, share croppers and landless labourers. The tyranny of zamindars along with the exorbitant rates of British land revenues led to a series of spontaneous peasant uprisings in different parts of the country during this period. The periodic recurrence of famines coupled with the economic depression during the last decades of the 19th century further aggravated the situation in rural areas and consequently led to numerous peasant revolts. The peasants often resisted the exploitation, and soon they realised that their real enemy was the colonial state. Sometimes, the desperate peasants took to crime to come out of intolerable conditions. These crimes included robbery, dacoit and what has been called social banditry. Peasant Movements are a part of social movements against British atrocities in the 18th and 19th centuries of the British Colonial Period. These movements had the sole purpose of restoring the earlier forms of rule and social relations.

TEBHAGA MOVEMENT

Tebhaga Movement was an uprising against the oppressive British Raj. Tebhaga, simply put, meant that twothirds of the crops tilled by the bargadars and adhiars would have to go to them. The idea was to enact a law to give recognition to this demand. 41% of the farmers, according to the Land and Revenue Commission in 1940 were bargadars and adhiars. In the same year, the Commission had agreed that this demand was only in order. A draft bill had been readied and circulated. But this had been swept under the carpet later on. Jyoti Basu, asked Suhrawarddi, Chief Minister of undivided Bengal of as to why this had been done? Suhrawarddi told him that he did not know that they had so many landlords in his party! In other words, he admitted that it

was these zamindars who had forced the Bill to be dropped. The farmers waited for years. When it was realized that the Bill was only a dream, it was then decided that the Tebhaga demand should be turned into an agitation.

Bargadar was a person who under the system generally known as adhi, barga or bhag cultivated the land of another person, on condition of delivering a share of the produce of such land to that person. The link between the zamindars and the British government was that zamindars would pay a yearly tax fixed by the government depending on the quantity and quality of the lands owned by the zamindars. How these lands would be cultivated, developed and what income would be generated was left to the zamindars. Below them was the class of jotedars to whom the zamindars distributed lands through a system called Pattani. The Pattani was achieved through negotiation on the basis of fixed taxes to be renewed and reviewed time to time. The jotedars class was directly connected with lands and cultivation. Although outside the jotedari system there were many land-owning individuals, small and big, who directly paid their land taxes to the zamindars through the nayebi tahsildari system of the zamindars, the jotedars in north Bengal used to own vast lands to the tune of hundreds and thousands of acres and they were the real class of people whose fortune and fate was directly and linked. Therefore, these people had to look after cultivation and development of lands so far its yield was concerned.

Jotedari system

Thus, the fate of the farmers was linked intricately with the jotedari system. Now, jotedars used two systems of cultivation. As for instance, they would employ agricultural laborers to cultivate lands under the direct supervision of the jotedar himself or give lease of lands to individual farmers, a small land-owning class of people who directly cultivated lands of their own or had taken lease from a jotedar for a particular period of time which depended on the will of the jotedar. The terms and conditions of such an arrangement meant all cost of cultivation of leased land had to be borne by the farmer; the total yield of to be shared equally between the cultivator and the owner of the land i.e. jotedar. This system of cultivation of land was commonly known as Adhiary Pratha (half-half system), mostly prevalent in north Bengal. This class was known as adhiar (half sharer). According to the Land Revenue Commission, 26 per cent families were dependent on adhi cultivation in Jalpaiguri district in 1939. Through this mechanism, just because a jotedar owned a piece of land he used to derive benefit without investing anything in the land. Moreover, he used to exploit the labor of a cultivator in various forms, the poor bargadar becoming almost a slave of the landowner. There was always a constant threat that if he did not obey the jotedar he would take away the land and the bargadar would have to starve. This was a system of exploitation.

Thus zamindari-jotedari system used to be an instrument of exploitation. The grievances of peasants grew as the economic situation in the country worsened in the post War period that immediately followed a terrible famine (1942) throughout Bengal, at that time being governed by Muslim league with Shaheed Suhrawarddi as Chief Minister. The economic situation, political

unrest, and unbearable social conditions of the peasants led to the movement later known as Tebhaga Andolan (Movement). The Communist leaders and Krishak Samity leaders took full advantage of the unrest prevailing among the poor peasants and landless agricultural laborers. The movement sparked off in an area under PS Chirirbandar in the district of Dinajpur. The area had a local Communist leader, Rupnarayan Roy, a small landowning farmer and local organizer of Krishak Samity, first and only MLA (member of the legislative assembly) of Bengal assembly elected on CPI ticket in 1946 election. He, together with other peasant leaders of the locality, led a movement in and around his locality and organized the peasants, mostly Hindus, belonging to Kshatriya caste and some Muslim cultivators in a grand assembly on the day when jotedars' men would come to collect fifty percent share of the crops. The assembled farmers refused to give fifty per cent; instead, they offered thirty-three per cent out of the total yield. A serious quarrel flared up between the jotedars' armed men and the adamant peasants causing injuries to both parties. Police came to the rescue of the jotedars' men and a peasant was killed in police fire. The event took a serious turn, local villagers came to the rescue of the peasants and the police had to retreat. But a couple of days later, reinforced police force inaugurated a reign of terror in the village after village in Chirirbandar police station- the leaders were hunted out, even common villagers including women were not spared from physical torture and repressive action. Hundreds of villagers were arrested.

The jotedars exacted illegally many other privileges. The condition of peasants worsened further due to wartime inflationary situation and famine. After the Bengal famine in 1943, the Bengal Provincial Kishan Sabha, which was guided by the Communist Party, called for a mass movement among sharecroppers in September 1946 to keep tebhaga (two-thirds) of the harvested crops. This demand had figured since the thirties in the programmes of the Kishan Sabha, and had also been recognized as just by the Floud Commission which in 1939-1940 had reviewed the miserable state of Bengal's agriculture. The Floud Commission, a land revenue commission established by the Govt. of Bengal in 1938, had exposed the maladies in the prevailing system which obliged sharecroppers to relinquish half of their harvest as rent, and on top of that, they had to pay scores of illegal cesses. These sharecroppers were continuously drained of the wealth they produced. Communists went out to the countryside to organize peasants to take the harvested crop to their own threshing floor and make the two-thirds' share a reality. The slogan, adhi noy, tebhaga chai (we want two-thirds to share not 1/2) reverberated. They started taking harvested crops to their own yards. They offered only 1/3 crop share to jotedars. This led to innumerable clashes and subsequent arrest, lathi charges and firing.

In 1946, Krishak Sabhas began to be established in various parts of the district of Midnapur like Mahishadal, Sutahata, Nandigram, Kharagpur, Tamluk, Ghatal, Kanthi, Bhagabanpur, and Keshpur. In late 1946, the sharecroppers (bargadars, bhagchasis or adhiar) of Bengal began to assert that they would pay not a half share of their crop to the jotedars but only one-third and that before the division of the crop, it would be stored in their own khamars (godowns) and not that

of the jotedars. In September 1946, Bengal Provincial Kishan Sabha gave a call to implement through mass struggle the Floud Commission recommendation of tebhaga. In many places, peasants tried to remove the paddy already stored in the jotedars' khamars to their own and this resulted in innumerable clashes. Communist cadres, including many students from the urban areas, went out into the countryside to organize bargadars, who had become a major and growing section of the rural population. The poor peasants had lost land through depression and famine and were pushed down to the level of sharecroppers as they constituted sixty percent of villagers in some pockets which became tebhaga strongholds. The movement caught on from the harvest in November, with the central slogan nij-khamare dhan tolo; sharecroppers taking paddy to their own threshing floor and not to the jotedar's house. Langal jar Jamin tar, Jan dibo tabu dhan dibona were other battle cries.

The movement received a boost in late January 1947 when the Muslim League Ministry led by Suhrawarddi published the Bengal Bargadars Temporary Legislation Bill in the Calcutta Gazette on 22 January 1947. The jotedars appealed to the Government, and the police attempted to suppress the peasants. The main centers of the movement were Dinajpur (Thakurgaon sub-division), Rangpur, Jalpaiguri, Maldah, Mymensingh (Kishoreganj), Midnapur (Mahishadal, Sutahata, and Nandigram), and to a lesser extent 24 Parganas (Kakdwip) and Khulna. Jotedar and police violence was sought to be countered by volunteers with lathis. In Nandigram, Sutahata and Mahishadal of Midnapur District, Bhupal Panda, Ananta Majhi, Pandit Jana led the movement by cutting of crops and dumping it on the threshing ground of the bargadars. Many of these areas were converted into Sangram Anchal or Muktantchal (Free Zone) as the government machinery failed to function there.

The peasant women had no economic right on the property in spite of their involvement in the production process and were relegated to the drudgery of household chores. Though doubly subjugated, they underwent a silent revolution during this movement. The zamindar and the jotedar exerted their rights over the women of the family of the bargadars and exploitation was carried out hand in hand. At that time, the married women of bargadars would get wages for their agricultural work. Perhaps to defy such subjugation by the state and the patriarchal society, the women broke all norms of modesty and femininity prescribed for them and came to the forefront of the movement taking up whatever the domestic confines provided them - broomstick, sickle, chopper, sticks to protest against the repression of the police and save their menfolk and their crops which gave them the dignity to live. They themselves fought for their rights to be members of the Volunteer Bahini of the Krishak Sabhas and they formed the 'Mahila Atmaraksha Samiti' (Women's Self-defense Organization) after the famine of 1943.

The new mode of resistance and forms of participation of the peasant women of Muhammadpur and Nandigram spread like wildfire and was replicated in other areas. They helped establish communication surreptitiously, guarded secret meetings, protected crops in the fields, were appointed village guards and kept vigil on police action and alerted the peasant folk, barricaded police entry. The moment they caught sight of the police force, they blew conch shells and beat

kansar (the bell-metal gong), shouted Vande Mataram to warn all and sundry. They even sacrificed life while trying to prevent police from entering villages and arresting fellow activists in Dinajpore, Jalpaiguri, 24 Parganas, Hooghly, and Howrah. They formed Jhanta Bahini (A group wielding broom-stick) in Jessore district and Gayen Bahini (A group wielding rammer used for threshing) in Rangpur District. In Nandigram, Bimala Majhi organized the womenfolk. In every village along with the Volunteer Bahini existed a Nari Raksha Bahini. A jotedar of Kendumari brought in the armed police when the bargadars tried to remove crops from his field to the godown of the panchayat. With police camps being set up everywhere, the Communist leaders called for a meeting in Kendumari. Women displayed unprecedented courage and militancy as they were subject to a silent revolution- a mass socio-economic consciousness. Bimala Majhi, who was one of the participants in the Tebhaga Movement in Midnapur district, came forward with her Nari Raksha Bahini armed with sickle, banti (a sharp instrument used to cut vegetables), broom in their hands and dust, salt and chili powder tied to their clothes which they hurled at the police. Bhupal Panda, Ananta Majhi, Ramesh Jana along with eighty-eight others were arrested. The poor peasant women, the most unorganized participants of the Tebhaga Movement, put up resistance which was mostly spontaneous and autonomous but militant.

Peasant men and women, many of them Muslims, attacked the granaries of local landlords or jotedars, to recover stocks of paddy already stored there. The rural structure of oppression was truly crumbling, as many landlords fled the villages, some of them disguised in women's clothes. Coinciding with the partially spontaneous nature of the uprising was the principal role that women played in it. Even in areas such as the interior villages of Nandigram, where women were not supposed to participate in cultivation in the field and where their agricultural tasks were largely limited to processing the harvested paddy, it was apparent that women had definite stakes in the success of the Tebhaga campaign. Even more so than their husbands, rural poor women had suffered heavily, inhumanly, from the Bengal famine of 1943. For these women, the storing of paddy in their own houses, for the first time in their lives, was a revolutionary event. It evoked tremendous emotional response. It, therefore, was no accident that rural poor women in massive numbers came forward to defend the movement's gains.

When the colonial state befriending the landlords, unleashed terror and intimidation to crush the movement, women throughout Bengal put up fierce resistance with men against police raids. From the forested area of Sunderbans in the South through the Norail subdivision in Jessore to Dinajpur in the north, village women spontaneously set up their Nari Bahini or semi-militia groups, facing rifles with brooms, pestles, and knives. It is, therefore, no exaggeration to state that in this towering political event, rural poor women played a lead role.

TELANGANA MOVEMENT

Peasant Movements: Telangana Peasant Struggle (1947-51)

This movement was launched in the state of Andhra Pradesh against the former Nizam of Hyderabad. The agrarian social structure in the Nizam's Hyderabad was of a feudal order. It had two kinds of land tenure systems, namely, raiyatwari and jagirdari. Under the raiyatwari system, the peasants owned patta and were proprietors of the land; they were registered occupants.

The actual cultivators of the land were known as shikmidars. Khalsa lands were chieftain's land and out of revenue collected from these lands, personal expenses of the royalty were met out. The Deshmukhs and Deshpandes were the hereditary collectors of revenue for khalsa villages. In jagir villages, the tax was collected through jagirdars and their agents. Both the jagirdars and the Deshmukhs wielded immense power at the local level.

The region of Telangana was characterised by a feudal economy. The main commercial crops, viz., groundnut, tobacco and castor seed, were the monopoly of the landowning brahmins. The rise of Reddis and peasant proprietors further strengthened the high castes and prop-ertied class. The non-cultivating urban groups, mostly Brahmins, Marwaris, Komtis and Muslims, began to take interest in acquiring land. Consequently, the peasant proprietors slide down to the status of tenants-at-will, share-croppers and landless labourers.

Following were the main causes of the movement:

(1) The Nizam's former Hyderabad state had a feudal structure of ad-ministration. In the jagir area, the agents of the jagirdar who were the middlemen collected the land taxes. There was much of op-pression by the jagirdar and his agents. They were free to extort from the actual cultivators a variety of taxes. This condition of ex-ploitation remained in practice till the jagirdari system was abolished in 1949.

On the other hand the khalsa land or the raiyatwari system was also exploitative though the severity of exploitation in the khalsa system was a little lesser. In the khalsa villages, the Deshmukhs and Deshpandes worked as intermediaries.

They were not in the pay-roll of the jagir administration; they were only given a percentage of the total land collection made by them. The Deshmukhs and Deshpandes then developed a habit to cheat the peasants by creat-ing fraud in the land records. This, in countless instances they reduced the actual cultivator to the status of tenant-at-will or a landless labourer.

In both the systems of administration, i.e., jagir and khalsa, the peasants were exploited by the intermediaries appointed by Ni-zam. High taxes, fraud with the record and exploitation resulted in creating discontent among the poor peasants.

(2) Yet another cause of peasant movement in Telangana was the ex-ploitation of the big peasants. D.N. Dhanagare informs that the jagirdars and the Deshmukhs had thousands of acres of land in their possession. The families of these big peasants and their heads were called Durra or Dora.

It means, the master or lord of the village. Dhanagare says that the Dora exploited the small peasants and agricultural labourers. This exploitation, in course of time, became legitimised with the big farmers. It was considered to be the privilege of the Dora to exploit the masses of peasants. Dhana-gare observes:

Such exaction had become somewhat legitimised by what was known as the vetti system under which a landlord or a Deshmukh could force a family from among his customary retainers to cultivate his land and to do one job or the other—whether domestic, agricultural or official, as an obligation to the master.

(3) In the whole former state of Nizam a system of slavery, quite like that of Hali of south Gujarat, was prevalent. This system was known as Bhagela. The Bhagela were drawn mostly from aboriginal tribes who were tied to the master by debt. According to Bhagela system, the tenant who had taken loan from the landlord was obliged to serve him till the debt is repaid. In most of the cases, the Bhagela was required to serve the landlord for generations.

(4) The Reddis and Kammars were notable castes who traditionally worked as traders and moneylenders. They exercised a great deal of influence in the countryside. They wanted to pull down the dominance of Brahmins as agriculturists in the state.

(5) The Telangana region was economically backward. The development of agriculture depended on the facilities of irrigation. The commercial crops could hardly be taken without irrigation facilities. Though, the lack of irrigation was realised by Nizam and he provided irrigation facilities to the peasants both in khalsa and jagir villages. But, these facilities were largely cornered by the big farmers.

(6) Land alienation was not new to the former Hyderabad state. Between 1910 to 1940 the frequency of land dispossession increased. On the one hand, the land possessed by the non cultivating urban people, mostly Brahmins, Marwaris, and Muslims increased and on the other hand the tribal peasants got reduced to the status of marginal farmers and landless labourers. Describing the impact of land alienation on the poorer peasants D.N. Dhanagare writes:

As a result of growing land alienation many actual occupants or cultivators were being reduced to tenants-at-will, sharecroppers or landless labourers ... in fact, where rich Pattadars held holdings too large to manage, they tended to keep a certain amount of irrigated land to be cultivated with the help of hired labour and turned over most of their dry lands either to Bhagela serfs or to tenant cultivators on very high produce rents.

The Telangana peasant unrest did not erupt over night. It looks about three to four decades. Actually, till 1930, the poor condition of the peasants had reached its culmination. Meanwhile, there had been much transformation in agricultural economy.

The Telangana economy, which was only subsistence economy, had grown into market economy by the 1940s. With the change in capitalistic agricultural economy, there was no change in the status of the tenants and share-croppers.

Actually, the modes of production and exchange remained pre-capitalist or semi-feudal and emerged as the major source of discontent among the poor peasantry in Telangana. On the other hand, with the termination of Second World War, there was a terrible fall in wholesale prices. The price trends strengthened the position of moneylenders and traders who tightened their grip on indebted small Pattadars and tenants.

One of the bitter consequences of the forces of change has been an increase in the number of agricultural labourers. It appears that there was enough discontent among the lower segments of peasantry. Peasants were only waiting for some opportunity to engineer some insurrection.

The course of events that led to the Telangana peasant struggle can be described as under:

1. The Telangana peasant movement was engineered by Communist Party of India (CPI). It is said to be a revolution committed by Communists. The Communist Party started working in Telangana in 1936. Professor N.G. Ranga had laid down the regional level peasant organisation in Telangana.

This regional organisation was affiliated to the All India Kisan Sabha an organ of CPI. Within a period of three or four years, say by 1940, the CPI had established its roots in the former Hyderabad state. During the period from 1944 to 1946, the Communist activities increased in several of the districts of Hyderabad. A proper framework was, therefore, prepared for launching a peasant movement in Telangana.

2. The next event which took place in Hyderabad and more actually in Telangana was the famine of 1946. All the crops failed and there was a crisis of the availability of fodder. The prices of food, fodder and other necessities of life increased.

This was a crisis for the tenants and the sharecroppers. Actually, the year 1946 provided all opportunities for engineering the peasant struggle. In the early July 1946, the peasants resisted the government orders. Militant action was taken by the CPI-led peasants.

3. The CPI made an objective to mobilise the peasants. It took up a campaign to propagate the demands of the lower peasants. By the middle of 1946, the Communist propaganda was fully intensified and covered about 300 to 400 villages under its influence.

The movement during this period was slow but the peasants showed enough resistance to the government dictates. However, it must be mentioned that in the mobilisation of peasantry, only Telangana local peasants participated.

4. The second conference of CPI was held in March 1948. It re-solved to give a revolutionary turn to the peasant movement in Telangana. The peasants later on were organised into an army and in-termittently fought guerrilla wars. Writing about this part of the course of events of Telangana peasant struggle Hamza Alavi observes:

Telangana movement had a Guerrilla army of about 5,000. The peasants killed or drove out the landlords and the local bureaucrats and seized and distributed the land. They established governments of peasant 'soviets' which were integrated regionally into a control or-ganisation. Peasant rule was established in an area of 15,000 sq. miles, with a population of four million. The government of the armed peasantry continued until 1950; it was not finally crushed until the following year. Today, the area remains one of the political strong-holds of the Communist Party.

5. Besides the peasant agitation, a parallel discontent was also tak-ing place in Hyderabad. A para-military voluntary force, organised by Kasim Rizvi, was taking its roots. The members of this voluntary or-ganisation were known as Razakars. This organisation was against the peasants. The peasants consolidated their movement in the face of the oppression of Nizam, activities of Razakars and the authority crisis in Hyderabad.

6. On September 13, 1948, the Indian army marched into Hyder-abad and within less than a week the Nizam's army, police and the Razakars surrendered without resistance. The police action, taken by the newly framed Central Government of independent India, was very quick to suppress the peasant movement. D.N. Dhanagare elabo-rates the police action as under:

On India's part the 'police action' was taken to stop the Razkar fren-zies as they not only created anarchic conditions within the state but also posed a serious threat to the internal security of neighbouring In-dian Territory. The police action was, therefore, unsavoury but essential ... once the Razakars were overpowered, and a military ad-ministration set up... the offensive was immediately directed at the peasant rebels in the troubled districts of Telangana. The superior In-dian army spared no measure to suppress the communist squads.

The peasant movement in Telangana had to be withdrawn. Actu-ally the police action gave a death blow to the Communist-led Telangana peasant movement. In this struggle, the movement had to suffer a lot. Fighting with the Indian army over 2,000 peasants and party workers were killed. By August 1949, nearly 25,000 Commu-nists and active participants were arrested; by July 1950 the total number of detainees had reached 10,000. This should suffice as an in-dex of the intensity of Telangana peasants struggle.

The Telangana peasant movement continued for about five years. Its outcomes can be enumerated as below:

(1) The struggle had the participation of a mixed class of peas-antry. Though the rich peasants, mainly the Brahmins, had their involvement in the struggle, the major achievement was that the

struggle for the first time brought together the tenants, sharecroppers and the landless labourers. This was by all means a very big achievement of the struggle. The Kammar and the Reddy castes who belonged to the rich class of peasants though gained enough but the movement consolidated the strength of poor peasants, particularly the tribals, who were the victims of vetti the bonded labour.

(2) Yet another benefit of this struggle was in the favour of the Communist Party. The Communist, for a long time to come, exercised their hegemony over the entire state of Hyderabad.

(3) Though the Communist Party, as a whole, benefited from the Telangana peasant struggle, it had its own losses also. Ideologically, the party got split from top to bottom. One group of Communists supported the struggle while other decried. The second group argued that the struggle was in no case less than terrorism. Writing about the division of Communist Party during the struggle, P. Sundarayya writes:

It is relevant to mention here that during the course of the struggle, particularly during the phase of its last two years, the Communist Party from top to bottom was sharply divided into two hostile camps, one defending the struggle and its achievements and the other denouncing and decrying it as terrorism, etc.

Those who opposed this struggle had even openly come out with the press, providing grist to the mill of the enemies in maligning the struggle and the Communist Party that was leading it. This sharp political ideological split, though enveloping the entire party in the country, was particularly sharp and acute in Telangana.

(4) So far the demands of the poor agricultural classes were concerned the movement was a failure. Surely, there were some gains to Kammar and Reddy—the rich peasant but the gains of the poor peasants such as sharecroppers were quite meagre.

The Telangana peasant struggle, it must be boldly said, was from above and not from the peasants themselves. No single agrarian stratum initiated the movement. It was all the handy work of the Communist Party. Despite the failure story of Telangana struggle it must be admitted that it was a source of inspiration for the Communists as a whole in the country. D.N. Dhanagare very rightly makes his conclusive statement about the outcome of the movement when he says:

Telangana insurrection was no more successful than other peasant resistance movements in India. Like all other movements, though, the Telangana struggle has become the source of legends and inspiration for the radical left in India. Recently, there has been a renewed interest, academic as well as political, in the study of the Telangana struggle, its silver jubilee celebrated

by all shades of Communist Party in India, became, however, an occasion for mutual mud-slinging; but that must be left out of this study.

SCHEDULED CASTE MOVEMENT

Scheduled castes are those castes/races in the country that suffer from extreme social, educational and economic backwardness arising out of age-old practice of untouchability and certain others on account of lack of infrastructure facilities and geographical isolation, and who need special consideration for safeguarding their interests and for their accelerated socio-economic development. These communities were notified as Scheduled Castes as per provisions contained in Clause 1 of Article 341 of the Constitution.

Scheduled castes are sub-communities within the framework of the Hindu caste system who have historically faced deprivation, oppression, and extreme social isolation in India on account of their perceived 'low status'.

Only marginalised Hindu communities can be deemed Scheduled Castes in India, according to The Constitution (Scheduled Castes) Order, 1950.

Mahar Movement

Mahars make up 9% of Maharashtra's total population and are the state's largest SC community. In Maharashtra and neighboring states, they are known as the untouchable castes. Marathi is their mother tongue and the official language. The Mahars were considered an untouchable community from the Gupta period onwards. Under the leadership of Ambedkar, the Mahars were converted to Buddhism in the twentieth century. The Mahar movement, which is considered a movement against upper caste dominance in Maharashtra, began in the same century.

Meaning of Mahar: Mahar is an official designation for Scheduled Castes in Maharashtra and neighboring states. Mahars are a caste that consists of many endogamous castes who speak Marathi. Mahars worked as a village watchman, messenger, wall mender, street sweeper, and carcass remover, among other jobs. They used to own agricultural lands and worked as agricultural labourers. However, they were not primarily thought of as farmers. They eventually changed careers. From the mid-twentieth century onwards, the Mahar began to migrate to urban areas (such as Mumbai [Bombay], Nagpur, Pune [Poona], and Sholapur), where they worked as masons, industrial labourers, railway workers, mechanics, and bus and truck drivers. They went through a lot of changes as a result of urban migration and occupational differences. The Mahars came together in the twentieth century under the leadership of Bhimrao Ramji Ambedkar and began to protest their situation. Hundreds of thousands of Mahars converted to Buddhism as a result of Ambedkar's influence.

Mahar Movement in Maharashtra (India)

Mahar is an “untouchable” caste cluster, living chiefly in Maharashtra and in adjoining states. They mostly speak Marathi, the official language of Maharashtra. They make up around 9 per cent of the entire population of Maharashtra. The Mahars live in the villages’ outskirts. They were classified as “untouchables” during the Gupta age.

As a people, they are strong, hardy, and of fighting spirit. Traditionally considered lower the Hindu hierarchical system, a number of Mahars during the twentieth century converted to Buddhism, Ambedkar being one of them. They rose against the upper-caste domination in the early twentieth century and revolt was called the Mahar movement.

The Mahar movement brought the smaller and untouchable castes onto a single platform and also brought a degree of awareness and unity enabling them to create a separate political party; a system of education including schools and colleges, hostels; and an effective Buddhist conversion movement.

Following are the essential factors in the processes by which the Mahar Movement grew:

- i. They felt the need to have a leadership free from traditional service.
- ii. Concerns and grievances felt and understood by both the “elite” members of the caste and also the masses.
- iii. The desire of legitimization of the new non-traditional Mahar aimed at both. Inside the caste and among members of the elite in the larger society
- iv. “Brokers”, men who served as links between the caste and the institutions of power in society, and those who knew how to use modern channels of change.
- v. Rise in communication channels, both within the group and from the group to the masses.
- vi. Protection for protesters when they overstepped the traditional boundaries.

The Mahar Movement in Maharashtra was designed over the years with the ideology and program initiated by various leaders from time to time. Before Dr Ambedkar s rise as an emancipator of the “untouchables”, the Mahars tried to raise their social status within the Hindu religion. Many efforts made by various leaders give us a picture of the origin of Dalit Movement on the one hand and a clear perspective of this movement on the other.

G.B. Walangkar was the first to fight for the rights of the Mahars in Maharashtra. He retired from military service in 1886 and mobilized people and made them conscious about their human rights. He highlighted the grievances of the people through his writings in two Marathi newspapers, Dinbandhu and Sudharak, in which he argued that casteism and untouchability had no religious base and were creations of the Hindus. To prove his theory he wrote a booklet titled “Vital Vidhvansak”.

He established Anarya Doshpariharak Mandali at Dapoli in the localities of Ratnagiri district, where the untouchable castes such as Chambhar and Mahar pensioners lived. In 1890, recruitment of the Mahars, the Chambhars, etc., was stopped.

On top of it, those in service were also asked to leave. Upset with this, Walangkar petitioned the British government demanding that the so-called “untouchable” castes be taken back into the army. In his petition he claimed that “untouchables” were former Kshatriyas.

Anarya Doshpariharak Mandali was succeeded by the Oppressed India Association of Shivaram Kamble. Kamble founded this association in 1917. Kamble became the unanimous leader of the “untouchables” in Pune, and started a Marathi newspaper Somawanshi Mitra, in Pune in 1909 to educate the masses. He began the struggle from within the fold of “untouchables” to do away with the customs of devdasi and Potraj prevailing among the Mahars and the Mangs.

He taught at a night school and was a leader in the Parvati Temple Satyagraha, organized by the untouchables and a few caste Hindus in 1929. Kamble used such methods as forming an organization for action, sub-mitting petitions, opening schools and libraries, etc. He asked the British Government to provide employment opportunities to the Mahars in the military. He worked with Dr Ambedkar on several “untouchable-related” issues.

Another notable personality in pre-Ambedkar Mahar movement was Kisan Bansode from Nagpur. He started a press in 1900, in which he published various newspapers, brochures, and books concerned with the reform of untouchables. He set up a library. He published the biography of Chokhamela.

He published Muzdur Patrika in 1918 to educate and mobilize the mill laborers. He established a school for girls in 1907 and started a number of hostels for boys. He established “The Sanmarg Bodhak Nirashrit Samaj” in 1901 which urged “untouchables” to take education, fight for civil rights, create a feeling among Hindus that the downtrodden should be raised up.

Kalicharan Nandagavli, another Dalit activist set up a school for girls in 1901. He was a convenor of the Bhartiya Bahiskrit Parishad which was held in Nagpur in 1920 under the chairmanship of Shahu Maharaj of Kolhapur.

He highlighted the problems of the “untouchables” to the Simon Commission and the Southborough Committee also. He fought injustice. He published many booklets in order to mobilize the people. When he got closer to National congress, differences appeared among the “untouchables” and he lost his popularity.

The pre-Ambedkar Mahar movement had limitations as their efforts were limited to calling upon occasional conventions, submitting memorandums and asking for some favor from the existing government, publishing and circulating newspapers and establishing hostels and libraries.

However, the leaders of the untouchables were focused on bringing about social reform in their respective communities.

Thus they had prepared a ground for the leaders to come to represent the untouchables in an organized way. It is obvious from the work of Gopal Baba Walangkar, Shivram Janba Kamble, Kisan Fagoji Bansode, and others that the social reform movement originated among the untouchables, especially among the Mahars, on their own. This prompted the Dalits to organize themselves and fight collectively against their social disabilities.

Dr B.R. Ambedkar came back to India after completing his studies abroad in 1923. After his arrival, he attended public meetings of the untouchables, but never took active part. He observed that awareness and the spirit of militancy were growing among the untouchables.

He decided to set up an organization with membership drawn from the Mahars, the Matangs, and the Chambhars called the Bahiskrit Hitkarini Sabha in 1924 in Bombay. With the rise of Ambedkar, the Mahar movement took a different turn.

Dr Ambedkar's leadership falls into three phases: the first, beginning in 1924 and ending in 1930; the second, beginning in 1930 with the emphasis on the acquisition of political power to improve the socioeconomic position; and the third, in which he embraced Buddhism and led a revolt against Hinduism. In the first phase, in 1924, he took part in the Sanskritization activity. After realizing that the Hindus would not concede religious rights to the untouchables on equal footing, he put forth a radical program.

He led the Satyagraha campaign at Mahad in 1927 against the ban on the use of water of a lake. Dr Ambedkar led a group of people and drank water. The largest Satyagraha took place in 1930 at Nasik. It was organized by Dr Ambedkar and local leaders.

It was called the Kala Ram Satyagraha involving untouchables making efforts to enter temples. He participated in another Satyagraha in 1955 to gain entry to the Parvati temple in Pune. The untouchables, led by Sivaram Kambla and Rajbhoj with some Maratha and Brahmin sympathizers, joined in a four-month effort to enter the gates of the Parvati hill temple.

In all the aforementioned mass movements, untouchables participated with great enthusiasm. For the first time the untouchables had themselves undergone the sufferings and humiliation along with the people of his community, and who had seen them suffer various kinds of disabilities. Given such a leadership, self-confidence rose among the untouchables regarding their ability to fight in an organized way and they started looking up to Ambedkar with a lot of respect.

AD DHARM

Babu Mangu Ram Mugowalia (14 January 1886 – 22 April 1980) was the founder of the Ad Dharm movement. He belonged to a family of leather workers from a village called Mugowal in Hoshiarpur district. His father wanted to educate him so that he could be of help in his leather

business – for instance, in reading the orders drafted in English. Despite hailing from a relatively well-off family, Mangu Ram faced social exclusion for his so-called low birth at his school in a nearby village called Bajwara and was forced to quit studies abruptly without completing his matriculation. Thereafter, in search of a comfortable life, like the early emigrants from Doaba, Mangu Ram also arrived in the United States of America in 1909. He worked in the lumber industry and farms to make a living. That was the time when Punjabi emigrants in North America were planning to form a radical organization for the liberation of colonial India. Mangu Ram became an active member of the Ghadar Lehar (movement) founded in 1913. He was one of the five members of a Ghadrute group who were assigned the herculean task of ferrying weapons to India for an armed rebellion against the British rule. But SS Maverick, the ship that was bought to transport weapons was caught en route and Mangu Ram ended up in the Philippines, where he spent the following 12 years incognito. When he finally returned to his native village in 1925, it took everyone by surprise because rumours of his alleged hanging had got there ahead of him.

Babu Mangu Ram Mugowalia is to Punjab what Mahatma Jotirao Phule is to Maharashtra. Just as Maharashtra's Shudratishudra movement was conceived and initiated by Phule, Punjab Untouchables' movement was conceived and initiated by Mangu Ram. Phule considered Maharashtra's Shudratishudras to be indigenes or aborigines. Similarly, Mangu Ram saw Punjab's Untouchables as the indigenes or aborigines. If Phule was influenced by the writings of Thomas Paine (1737-1809), the English-born American political activist, theorist, philosopher and revolutionary, Mangu Ram learnt his lessons of equality and freedom from the proclaimed democratic and liberal values of the US where he came into contact, during his sojourn, with the revolutionary freedom fighters popularly known as Ghadari Babas of the historic Ghadar Lehar. This cemented his resolve to fight for a dignified life for the masses by liberating India from the clutches of the British Empire, and to establish in its place a democratic and egalitarian home rule that secured equality and freedom for all, irrespective of caste, class, creed, language, gender and regional differentiations.

On return to his native village, after spending 16 years abroad, Mangu Ram though was shocked to see that the practice of untouchability continued unhindered. In his own words: "While living abroad I had forgotten about the hierarchy of high and low, and untouchability, and under this delusion returned home in December 1925. The disease from which I had escaped started tormenting me again. I wrote about all this to my leader Lala Hardyal ji, saying that until and unless this disease is cured, Hindustan could not be liberated. Hence, in accordance with his orders, a programme was formulated in 1926 for the awakening and upliftment of the Achhut qaum [Untouchable community] of India" (Kaumi Udarian 1986: 23-24). Consequently, he decided to dedicate the rest of his life for the emancipation and empowerment of his fellow so-called low-caste people. He established an elementary school in his native village for the Untouchables, who later came to be designated Scheduled Castes under the Government of India (Scheduled Castes) order, 1936, which contained a list (or schedule) of castes throughout the

British-administered provinces. Following in the footsteps of his revolutionary Ghadarite leadership in the US, he aspired to both fight against the caste-based social evil of untouchability and to replace it with an all-encompassing social freedom, and for India's political freedom. Like Phule in Maharashtra, he faced stiff opposition from the so-called upper castes in his fierce struggle against oppressive structures of domination.

The Ad Dharm movement pioneered by Mangu Ram soon became a household name among the Untouchables of Punjab like the Satyashodak Samaj movement was in Maharashtra. Seth Kishan Das of Bootan Mandi – a well-known local leather merchant – helped build the headquarters of the movement, called “Ad Dharm Mandal”, in Jalandhar. Mangu Ram's untiring efforts took the movement to the doorsteps of all the Untouchables in the region and he soon emerged as their cult figure. Under the flag of Ad Dharm movement, he fought for the long-denied land rights of the SCs who were legally debarred, along with other non-agricultural castes, from owning agricultural land under the Land Alienation Act of 1900. Moreover, under the local customary law, popularly known as “rayit-nammas”, the lower castes were also deprived of ownership rights to the plots on which their houses stood in the segregated neighbourhoods. They were not allowed to build pucca houses. They would build mud/thatched houses and in return were supposed to perform some begar (forced labour without wages) in the farms of the legal owners of their residential plots.

Babu Mangu Ram Mugowalia

Another important campaign that the Ad Dharm movement undertook was for special legal provision of education and reservation in government employment for the Untouchables. It was for the first time that the Untouchables could come together to fight for a dignified life and to collectively press for their long-pending claim for a share in the local structures of power.

In the wake of the limited democratic political process prised from the British government in 1919 for the institutionalization of the electoral system, every community was busy in organizing its respective members into socio-political force (political party/social organization). As a young man who had returned from the US and the Philippines and who had been meticulously chiselled in the company of the Ghadarite Babas, Mangu Ram was able to bring together many of his fellow community members to build a separate social and political organization on a par with that of the upper-caste communities like the Hindu Mahasabha of the upper-caste Hindus, Muslim League of the Muslims and Singh Sabhas of the Sikhs. This limited election-based legislature-forming-process also led to the formation of similar Adi movements in other parts of the country, such as Adi-Andhra, Adi-Dravida and Adi-Karnataka in South India, and Adi-Hindu in Uttar Pradesh. Though these different Adi movements emerged almost at the same time in different regions of the country, there is no evidence to prove that one gave rise to another. Each Adi movement was influenced by the prevailing local situation.

In the poster announcing the first annual meeting of the Ad Dharm movement, Babu Mangu Ram Mugowalia, along with Swami Shudranand and Babu Thakur Chand, devoted the entire space to the hardships faced by the Mulnivasis at the hands of the caste Hindus. He also made an appeal to the Mulnivasis to come together to chalk out a programme for their liberation and upliftment.

Keen readers of Babu Mangu Ram Mugowalia have observed that he was conflicted on the issue of the British Raj. On the one hand, he feared even greater oppression under Hindu majoritarian rule than under the British – whom he also viewed as possible partners in facilitating a more equal Indian society – but on the other hand he aspired for the dignity of national independence, which necessitated the removal of the British. This remained a recurring paradox in his political approach till Indian Independence in 1947. In the meantime, he, along with other leaders of the Ad Dharm movement, chose to restore the lost dignity and freedom of the Untouchables by detaching them completely from Hinduism and reconsolidating them into their own ancient religion (Ad Dharm). The long domination by the Aryans, they alleged, made them oblivious of their native religion.

Thus, what made the Ad Dharm movement the most politically noticeable and popular of its time was the farsightedness of its visionary leaders in setting the goal of bringing diverse Untouchable communities under a single flag and to transform them into a distinct single community that was part of the Punjabi qaum. This was the most crucial political move on the part of Mangu Ram, the master strategist, who intervened at the vital moment when limited direct elections were scheduled to be held in the state. He pressed for a separate religion for the Untouchables of Punjab to be recorded in the 1931 Census, who in his opinion weren't Hindus, Sikhs, Muhammadans or Christians. Mangu Ram would reiterate that the Untouchables were the original inhabitants – Mulnivasis (indigenes/aborigines) – of this nation. He would say that the alien Aryan invaders deprived them of their kingdom, looted them, and finally enslaved them. In his brilliant article entitled Achhut da Swaal (The Question of Untouchability), published in the Kirti monthly of the Kirti Kisan party in 1929, Shaheed Bhagat Singh, writing under the pseudonym of Vidrohi, supported the Ad Dharm leadership in its tirade against the caste system and for a separate religion, but at the same time also cautioned them to keep their distance from the British.

Mangu Ram would say that the Mulnivasis, the natives of this region, had forgotten their gurus and other religious symbols during their long period of persecution under the rule of the outsiders. They had been condemned as impure and declared unfit to have their own theology. In order to establish and legitimize their hegemony over the enslaved Mulnivasis, the Aryan invaders declared themselves the top three Varnas (Brahmans, Kshatriyas and Vaishyas) in the fourfold Chatur-Varnavyavastha. The natives of the conquered land were pushed into the fourth Varna of Shudras – consisting of the artisan castes – and still others were reduced into lowest of the low castes, contemptuously dubbed as Varna-less and untouchable.

The assertion by Mangu Ram that the Untouchables were the original inhabitants of this land had an enormous psychological impact on them. It instilled in them pride and self-esteem and provided a theological basis for their new identity. The Ad Dharm was based on the teachings of the saint-poets of the Bhakti movement, particularly Ravidas, Valmiki, Kabir and Namdev. In fact, the leaders of the Ad Dharm movement placed Guru Ravidas at the centre of their discourse around which the entire socio-political and spiritual paraphernalia of the movement and separate religion was woven. In this way, Mangu Ram played the dominant role in defining the markers of a distinct identity and restoring lost heroes, gurus, and rich cultural heritage to the natives. He imbued them with the yearning to become rulers themselves.

Mangu Ram's efforts paid off when the British government caved in to the Ad Dharmis demand and granted Ad Dharm the status of a separate religion. During the Census of 1931, around half a million Scheduled Castes in Punjab declared themselves as followers of their newly recognized religion Ad Dharm, or Ad Dharmis. Another equally great achievement of the Ad Dharm movement was that it swept the reserved provincial assembly seats of Punjab in the 1937 and 1946 elections, which made it an important stakeholder in the legislature, perhaps for the first time in the history of the Untouchables in colonial India.

Moreover, the Ad Dharm movement proved to be the fertile ground for the sowing of seeds of the mission of Babasaheb Dr B.R. Ambedkar in Punjab. During Dr Ambedkar's struggle for a separate electorate for the Depressed Classes at the London Round Table conferences, Mangu Ram supported him. He sent many telegrams supporting Ambedkar during his confrontation with Mahatma Gandhi over the question of the leadership of the Depressed Classes in India.

Eminent American social scientist Mark Juergensmeyer has documented in his classic *Religious Rebels in the Punjab: The Ad Dharm Challenge to Caste*, the incredible contribution made by Ad Dharm movement in generating social and political consciousness among the lowest of the low to help them rise against the centuries-old discriminatory caste system and to establish an egalitarian socio-political order modelled on Guru Ravidas' Begampura.

Both Jotirao Phule and Babu Mangu Ram were moved by the plight of a large oppressed population in their respective regions, the Shudras and Atishudras in Maharashtra and the Untouchables in Punjab, which they themselves were part of, and mobilized them against the oppression. Both Phule and Mangu Ram traced the oppression to the invasion of their land by Aryans who had arrived from Central Asia and to the perpetuation of the subjugation of the natives (Mulnivasis) through the myths propagated in the form of scriptures written by the invaders. In the brilliantly articulated alternative sociopolitical narratives of Phule and Mangu Ram, we thus have the foundation for an alternative politics for an egalitarian social order across the various spatial-cultural regions of India. We have in them the foundation to build the Ambedkarian discourse of social democracy and eventually bring about the "annihilation of caste".

SCHEDULED TRIBAL MOVEMENTS

The tribal movement in India was of two kinds. First kind of movement challenged their dictators like landowners, money-lenders, merchants, contractors), government administrators and Christian missionaries. The second movement was associated with the Indian, national movement. As per reports there were over 70 tribal rebellions over a time frame of 70 years ranging from 1778 to 1948. These uprisings were anti-colonial in varying gradations. Some of the noteworthy tribal revolts took place in:

- Chotanagpur region-Tamar revolt (1789-1832)
- Kherwar movement of Santhals (1833)
- Santhal revolt of 1855
- Munda's movement (1895-1901)
- Tribals and National Movement in Orissa (1921-.36)
- Tribal movements in Assam in the late 19th century

The tribal groups lived in comparative isolation for centuries and despite their acquaintances with the non-tribal people, they continued to maintain their separate identity. Every tribal group preserved its identifiable socio-religious and traditional life along with political and economic institutions.

The Santhal Insurrection (1855-1857)

The santhal rebellion was the most serious challenge faced by the british east india company. the santhals were a peace loving community of bihar region. The permanent settlement act of 1875 brought their land under the jurisdiction of british. Many government officials were appointed to divide and distribute the land. The santhals fled the area and shifted to rajmahal hills. But the acquisition soon reached up to the hills as well. The officials set up their base there and used santhal labor for the railway project started in the area. With the british came the zamindars, traders and moneylenders. Santhals' trade worked on barter system but with the new economy, they felt the need of money. The moneylenders gave out loans with very high interest rates. And santhals were forced to give away their possessions in return of the money. Sometimes, the women were taken away forcefully by british officials or zamindars. This led to great dissatisfaction among them. Two brothers, sindhu and kanhu, rose against these dreadful activities. On 30 june 1855, 10,000 santals assembled at the bhagnadihi fields and pledged to establish a free santal state. Common people like blacksmiths, potters, carpenters and weavers supported them. Other leaders were brothers chand and bhairav, bir singh and pramanik. The number of rebels rose up to 50,000.

They targeted railway stations, post offices, police stations, European bungalows and Zamindars' houses. They bravely fought with only bows and arrows with the armed British soldiers and nearly brought British rule down from Bhagalpur to Munghyr. Trouble spread to Birbhum and

Murshidabad as well. Postal and rail services were thoroughly disrupted. Several British armies were dispatched to quell the rebellion. At last in February 1856 the uprising was suppressed and 23,000 rebels were slaughtered. Sindhu, Kanhu and other leaders were hanged, prisoners got jail terms of seven to 14 years and 36 Santal villages were destroyed.

The Santal Revolt was essentially a peasant revolt. People from all professions and communities such as potters, blacksmiths, weavers, leather workers and doms joined in. It was distinctly anti-British in nature.

Due to the Santhal rebellion, the Santhal areas began to be considered as Santhal Paragana. Due to the insurrection, the British recognized the tribal status of the Santhals and now they came under the uniform administration.

Munda Revolt (1895-1901)

The movement of Birsa Munda is the most popular movement of the Munda tribes of Singhbhum and Ranchi districts of the Chotanagpur region of Bihar. Before the introduction of the British policies in the areas inhabited by Oraon and Munda, their traditional land and social systems had existed. Their land system was known as 'Khuntkari system'. The land was distributed through customary rights and there were no landlords. The tribals worked on their land and paid tributes to their chiefs. By 1874, the British replaced the traditional khuntkari system by the Zamindaris system. The introduction of Zamindaris system created the classes of Zamindars (landlords) and ryots (tenants). The tribals now had to pay rent to the landlords and failure to do so resulted in their eviction from land. The landlords exploited the tribals in the many ways. Even the social system of the tribals did not remain unaffected by the British policies. Their clan councils which provided them justice without any fees were replaced by the modern courts. Apart from the exploitation and oppression of the Mundas caused by the outsiders and the disruption caused to their traditional social and political systems: natural calamities also worsened their conditions. Two famines in 1896-97 and 1890-1900 made them suffer from starvation. The mundas held the dikus and the missionaries responsible for their miseries.

The movement was led by Birsa Munda. He felt that this freedom could be achieved by ending the oppression of the dikus and by driving the British out of their territory or by killing them. He announced the establishment of the Birsa Raj, in which nobody but only Birsa could be obeyed. He asked the Mundas not to pay rent. The government arrested Birsa on 22 August 1895. He was convicted along with others on 19 November 1895. The arrest of Birsa increased the anti-government bias of the movement. He was later released. The movement took a violent form. It broke out on 24 December 1899. The tribals attacked the outsiders with traditional weapons i.e. arrows and burnt their houses. On 28 January, two leading Munda Sardars and 32 others surrendered following the attachment of their property. Police arrested Birsa on 3 February 1900. He died of chronic dysentery on 9 January 1900. The result of the trial weakened the Munda movement.

The movement had its impact on the government attitude towards their problems. It decided to abolish the compulsory begar system and passed the Tenancy Act of 1903 which recognised the Mundari Khuntkatti system. The 'Government' also passed the Chotanagpur Tenancy Act in 1908. Birsa became a legend for the coming generations.

The tribal movements in the North-East region of India were also politico-religious in nature. Due to the majority of the tribes in the region, and their economic and social position, the movements were hardly socioeconomic in character.

ENVIRONMENTAL MOVEMENTS

Environmental movements are generally understood as those movements that are taken up against the development projects as the latter depend on vast amounts of natural resources and their injudicious use and exploitation. The concept of development is usually prevalent in a market economy, where 'development' is associated with the material progress of the individual and the maximum extent to which he/she can enjoy the fruits of materialistic progress. It promotes a thorough consumerist lifestyle, even projecting the lavishness of the lifestyle as a basic necessity. This brings in with it the concept of 'resource exploitation' through 'conquest over nature', which is highly mistaken as available in abundance. It overlooks the fact that nature provides only to a certain extent and that resource depletion poses major threat to human survival. Therefore the movements are often organised to protest against the exploitation of the nature thus bringing in the concept of ecological and environmental sustainability.

Chipko Movement

The Chipko movement in the central Himalayan region in the early 1970s is credited with establishing modern environmentalism and environmental movements in India. The Chipko movement, which was started to defend Himalayan forests from destruction before independence, has its origins in the pre-independence era. During the early decades of the twentieth century, many protests against colonial forest policies were organised. People's main demand during these rallies was that the forest's benefits, particularly the right to fodder, be distributed to locals. These fights have continued in the post-independence era, as independent India's forest laws are identical to those of colonial India.

During the year 1973, 'Chipko' [chipak jayenge – to hug] was born. The forest department declined to give ash trees to the Dasholi Gram Swarajya Sangha (DGSS), a local cooperative centred in the Chamoli regions, to create agricultural tools in early 1973. The forest department, on the other hand, assigned ash trees to Symonds Co., a private firm. The DGSS was prompted by this occurrence to protest the injustice by lying down in front of lumber trucks and burning resin and timber warehouses, as was done during the Quit India movement. When these tactics proved inadequate, one of the leaders, Chandi Prasad Bhat, recommended hugging the trees, and thus 'Chipko' was born. This type of protest was crucial in convincing the private enterprise not to cut down the ash trees. As a result of its success, the movement extended to other nearby

communities, and the movement came to be known as the Chipko movement internationally. From its inception, the Chipko movement focused on environmental issues such as forest depletion and soil erosion.

The Chipko movement's success was due to three main factors:

First is the intimate relationship between local people's livelihoods and the nature of the movement. Chipko is seen by the locals as a war for fundamental survival, which has been denied to them by the state's institutions and policies (Guha, 1989). Furthermore, the uniqueness of the Chipko movement is due to the peculiarity of the locality where it took place, the engagement of women in household sustenance, and the overwhelming support for anti-alcohol campaigns.

Second, the nature of agitation in this regard is to be considered. Chipko, unlike other environmental initiatives, has completely adhered to Gandhi's nonviolent freedom struggle tradition.

Third, the simplicity and sincerity of leaders such as Sunderlal Bahuguna, as well as their connections to national leaders such as Mrs Indira Gandhi, other politicians, and officials, contributed significantly to the movement's success.

The Chipko movement's demands were as follows:

Complete stoppage on commercial tree cutting;

Traditional rights should be recognised based on people's basic needs

Making the arid forest green by increasing people's participation in tree cultivation

Formation of village committees to manage forests

Development of forest-related home-based industries and making raw materials available as well as money and technique for it

Priority to be given to afforestation considering local conditions, varieties and requirements.

What makes the Chipko movement unique is that it served as a predecessor and direct inspiration for several subsequent popular movements in defence of community rights to natural resources. These conflicts sometimes centred around woods, and other times they evolved around the control and the usage of pasture, mineral, or fish resources.

Narmada Bachao Andolan (NBA)

The Narmada River Project spans three western Indian states. Gujarat, Madhya Pradesh, and Maharashtra. No other development project in India has pushed the scale and severity of eco-development issues to such a high level of informed debate, political mobilisation, and grassroots

activity like this one. The controversy surrounding this project has posed several challenges to the government at all levels, while also allowing it to establish and strengthen ties with civil society organisations and non-governmental organisations (NGOs) on both a national and international level. This project influenced India's political debate on alternative development.

The Sardar Sarovar Project, an interstate multi-purpose project with a huge dam at its end in Gujarat, was being developed on the Narmada River, India's fifth longest river with a length of 1312 kilometres.

With its two megaprojects, the Sardar Sarovar Project and the Narmada Sagar Project in Madhya Pradesh, the Narmada Valley Project is the world's largest single river valley project to create the world's largest man-made lake.

The project's repercussions, on the other hand, are fairly obvious and disturbing. The reservoir would engulf 37,000 hectares of land, including 11,000 hectares of forest. Around one lakh people will be displaced from 248 villages in Gujarat, Maharashtra, and Madhya Pradesh. The project was started by the state government because Gujarat was one of India's most water-scarce regions, with a severe lack of water for domestic, commercial, agricultural, and industrial requirements. Furthermore, between 1985 and 1988, the state had one of the greatest droughts in its history, bolstering the need for this endeavour.

Critics, on the other hand, see it as "the world's worst man-made ecological disaster" and believe it is unsustainable. It should be noted that the Narmada project was initially intended to be an irrigation project with a 161-foot-high dam. It was later discovered that if the dam's level was raised to 455 feet, water could be technologically harnessed, making it a multipurpose dam. As a result, state governments began asking for funds not only from the federal government but also from the World Bank.

In 1946, plans for damming the river Gora in Gujarat arose. In 1961, Prime Minister Jawaharlal Nehru laid the foundation for the construction of a 49.8-meter-high dam. The dam planners thought that a much larger dam would be more profitable after analysing the new maps. The only issue was reaching an agreement with Madhya Pradesh and Maharashtra, two adjacent states.

In 1969, the Indian government established the Narmada Water Disputes Tribunal, after years of negotiations attempting to agree on a feasible water-sharing formula. Ten years later, it announced its award – the Narmada Water Disputes Tribunal Award. The award envisaged that land should be made available to the ousters at least a year before submergence.

The World Bank approved a \$450 million financing for the largest dam, the Sardar Sarovar, in 1985, before the Ministry of Environment even cleared the Narmada Valley Development Projects in 1987. In reality, work on the Sardar Sarovar dam site has been going on in bits and pieces since 1961, but it got serious in 1988. 154 questions were raised about the government's promises of a relocation and rehabilitation programme. As a result, each state established a

people's organisation to handle these issues. Soon after, these disparate groups merged to create the Narmada Bachao Andolan (NBA), or Save the Narmada Movement, led by social activist Medha Patkar.

It should be noted that the NBA began as a campaign for knowledge on the Narmada Valley Development Projects, but has since evolved into a fight for just rehabilitation for the tens of thousands of people who would be displaced by the Sardar Sarovar Dam and other huge dams along the Narmada River. When it became evident that the project's size made proper damage and loss assessments impossible, and that restoration was impossible, the movement challenged the project's entire foundation and called into doubt its claim to development.

The NBA demanded that all development on the Narmada Valley Development Projects be formally halted in 1988. More than 50,000 people from all over India gathered in the valley in September 1989 to promise to combat "destructive development." Thousands of villagers marched and paddled to a small town in Madhya Pradesh a year later to renew their vow to drown rather than agree to be relocated. Under pressure, the World Bank was obliged to establish the Morse Commission, an independent assessment commission. Its report, the Morse Report, was published in 1992. The report "endorsed all the main concerns raised by the Andolan (NBA).

The Pamela Cox Committee was appointed by the Bank two months later. It was also referred to as "a sort of patchwork remedy to try and salvage the operation" that was exactly what the Morse Report cautioned against. The World Bank eventually withdrew from the Sardar Sarovar Project due to the international controversy caused by the Report. The Gujarat government decided to raise \$200 million and move on with the project.

Many of the project's concerns have yet to be resolved. What is more essential, though, is that the Movement has been successful to a considerable extent.

The achievements of the movements are:

In 1993, the World Bank left Sardar Sarovar.

Construction of the Sardar Sarovar was halted between 1994 and 1999.

Foreign investors have pulled out of the Maheshwar dam project. 1999-2001.

The NBA is unique in that it emphasised the significance of people's right to inform themselves, which the authorities eventually forced them to accept under media and public pressure. It was successful not only in mobilising hundreds of thousands of people from many walks of life to put pressure on the State government for its anti-people policies, which impacted and displaced thousands of tribals from their homes and livelihoods. It also drew a lot of support from around the world.

SOCIAL REFORM MOVEMENTS

The Indian society in the first half of the 19th century was caste-ridden, decadent and rigid. The conquest of India by the British during the eighteenth and nineteenth centuries, exposed some serious weaknesses and drawbacks of Indian social institutions. When the British came to India, they introduced the English language as well as certain modern ideas. These ideas were those of liberty, social and economic equality, fraternity, democracy and justice which had a tremendous impact on Indian society. As a consequence, several individuals and movements sought to bring about changes in social and religious practices with a view to reforming and revitalizing society.

These efforts, collectively known as the Renaissance, were complex social phenomena. It is important to note that this phenomenon occurred when India was under the colonial domination of the British. There were some enlightened Indians like Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, Dayanand Saraswati and many others who were willing to fight and bring reforms to society so that it could face the challenges of the West.

Vaikom Satyagraha

The Vaikom Satyagraha in Travancore is today known as Kerala is the first anti-caste movement. This movement was against the caste system as the pupil of the depressed class and untouchables were restricted from entering the temple. The movement originated and took its place at Vaikom, then part of the princely state Travancore in the vicinity of Mahadev temple in Kottayam district of Kerala during the period of 1924-1925.

Background:

In AICC (All India Congress Committee) meeting in Kakinada 1923, T. K. Madhavan along with Sardar Panikkar and K. P. Kesava Menon submitted a petition to the Travancore legislative council appealing to grant the right to temple entry and worship of gods for all sections of the society irrespective of caste, creed, and community while giving continuous memorandums to the Royal Government for abolishing and the ban for marginalized and depressed castes to access Vaikom's temple and roads.

The efforts of T.K. Madhavan were heard and the Congress party considered the eradication of untouchability in their forthcoming constructive programs and owed to lend full support to the Vaikom Movement. The charges for this constructive program were passed to Kerala Pradesh Congress Committee (KPCC). Thus as per the Kakinada Congress resolution and considering its importance and need the KPCC held a meeting on 24 January 1924, at Ernakulam to give the initial shape and thus form an Untouchability Abolition Committee (UAC) with leading heads namely T. K. Madhavan, Kurur Neelakandan Namboodiripad, K. Kelappan (convener), T. R. Krishnaswamy Iyer, and K. Velayudha Menon. Five other members including T. K. Madhavan were core members of a Publicity Committee to propagate the movement.

Vaikom Movement:

The Vaikom Satyagraha was launched on 30th March 1924. The first chosen place for the initiation of the Satyagraha was the four public roads proceeding to the Shiva Shrine in Vaikom where 'marginalized, depressed caste and untouchables were imposed with restrictions upon entry.

The leading Satyagrahis namely Kunjappu, Venniyil Govinda Panicker, and Bahuleyan lead the procession walking hand in hand towards the Shiva shrine where a message was displayed that Ezhavas and other lower caste including the marginalized sections of the society are restricted to make use of the pavement (road) for any of its utilities. The policemen guarding the road hindered their walk and ask them their caste. Kunjappu would declare his Pulayan caste, Bahuleyan would say his Ezhava caste, and Venniyil Govinda Panicker would assert as Nair. They would be denied entry as they belong to a 'lower caste'. The three men would, however, be firm on their stand and would be arrested. As the group of three would be arrested, more Satyagrahis will come for their replacement, marking the commencement of the Vaikom Satyagraha

On 7th April 1924, TK Madhavan and KP Kesava Menon were also arrested which ignited more volunteers to come from Tamil areas and join the movement.

The Travancore's jails got protestors rising in number, however, the temple authorities used cunning tactics of barricading the roads stalling police patrols.

The satyagrahis owing to their peaceful protest tactics just stationed themselves outside the barricade and went on hunger strike for days. Many satyagrahis were witnessed standing in waist-deep water to symbolize their strong willingness to protest.

The Akali society of Punjab also extended their support to the Vaikom Satyagraha and set up a kitchen to provide food to the satyagrahis.

One of the prominent figures Periyar E.V Ramaswamy, a man who could now be called as 'Father of Modern Tamil Nadu' was known for arousing the 'Self-Respect Movement' against Brahmanical orthodoxy and superiority and highlighted how marginalized castes are being subjected to exploitation. He also join the struggle and is popularly known as the only Satyagrahi who was arrested twice, thus earning him the title of Vaikom Virar (the fearless hero of Vaikom).

Non-Hindus gave their support, like barrister George Joseph in Kerala, Bhajematharam Mathunni, and Abdul Rahman, the Editor-in-Chief of Young India extended their support to Satyagraha.

Sree Narayana Guru also extended his support and co-operation to the Vaikom Satyagraha. Guru was against the caste system and orthodox discrimination prevalent in Hindu society. He has

given Vellore Mutt near Vaikom to set the head office for the Satyagrahis. He ordered two of his favourite disciples Swami Sathyavathan and Kottukoikal Velayudhan to look after the work of Satyagraha.

The Vaikom Satyagraha witnessed Women's Empowerment as a large number of women seem to be actively participating in the movement on such a large scale for the first time. This active participation opened a pathway for women in Sociopolitical affairs and to be an integral part of it. Women such as Meenakshi Amma, Narayani Amma, Nagammai Amma, and Thirumalai Amma, were leading women warriors of the Satyagraha, inspiring women from across the country to participate in the movement and fight.

Role of Gandhiji in Vaikom Satyagraha:

Mohandas Karamchand Gandhi felt that the support of the Savarnas (forward castes) was needed at this time for the peak point of the Vaikom Movement. Thus, he suggested that a procession consisting of only Savarnas should march to Trivandrum to show their support. As a result on 1st October 1924, a troop of Savarnas marched and lead the procession to submit an appealing petition to the Regent Maharani Sethu Lakshmi Bai of Travancore consisting of 25000 signatures to open the gates temple for everyone caste. Gandhiji also confronted the Regent Maharani. This procession of Savarnas was Mannath Padmanabhan Nair led the savannas procession. The procession started with a small number of 500 people at Vaikom ended with 5000 when the procession arrived at Thiruvananthapuram in November 1924.

The memorandum of appeal was given to the Maharani Sethulakshmi Bai of Travancore for opening the Vaikom temple roads for all castes. The petition was overviewed in the legislative council as it was passed by Maharani, but it lost to win by a narrow margin of votes. This defeat lowered the morale of the satyagrahis, and elated the escalating atrocities of Brahmin orthodoxy.

Self-Respect Movement

E.V. Ramaswami Naicker gave a concrete shape to his ideas on social reform by founding the Suyamariyati iyakkam otherwise known as the Self-Respect Movement. It was a reform movement dedicated to the goal of giving non-Brahmins a sense of pride based on their Dravidianist past. The movement denied the superiority of the Brahmins and their implicit faith in the present system. The movement sought to turn the present social system topsy-turvy and establish a living bond of union among all the people irrespective of caste or creed, including the untouchables. One of the essential points was a denial of the mythology of Hinduism by which, it contended that, the unsuspecting were made victims of the Brahmins. Since the Brahmin was seen as a leader of the social and religious life of Tamil Nadu, he became the target of 'Self-Respect' attacks.

The tone of the movement was determined by EVR, who represented a new type of leader in Tamil Nadu. He was uneducated in English and able to. Speak only in Tamil in the popular

idiom. The self-movement concentrated almost entirely on the Tamil Districts. It covered primarily the groups low in the social hierarchy: like the Vanniya Kula Kshatriyas and the untouchables. Special efforts were also directed at women and young people. Because of the directness and simplicity of its message, the illiterate and semi-educated in the rural areas turned to the movement. This was a new development in Tamil Nadu politics.

The Justice Party, Which claimed to be the sole representative of the non-Brahmins did not bother to cover these groups. In fact the leadership of the Justice Party was drawn from the landowning groups and attempted its cover the middle classes and landowning classes.

Even before the Self-Respect Movement was founded in 1925, EVR started expressing his views on the evil in the society. The Tamil language weekly Kudi Arasu (People's Government) founded in May 1924 became the organ of the Self-Respect Movement. It was specially directed at certain non-Brahmin groups that had not been reached by the Justice Party's Dravidian. Shortly after 1930, Ramaswami Naicker began a Tamil daily called Viduthalai (Freedom) and in 1935 he started a Tamil monthly called Pakkuthariuu (commonsense). But in the late 20's Kudi Arasu was the movement's propaganda weapon.

Since the Self-Respect Movement had as its target the Brahminical tradition, its symbol came under attack. On a number of occasions, the manuscript was burned. Certain characters in the puranas were changed. For instance, Ravana in the Valmiki's Ramayana was held up as the hero and be an ideal of good Dravidian conduct. Rama was seen as a wicked and unjust Aryan.

Attack of this kind on Hindu scriptures and its symbols however were. Criticized even by non-Brahmin leaders apart from Brahmins. But their criticisms did not have any impact on the Self-Respect Movement's tone. The propaganda of the Self-Respect Movement continued and even grew sharper. Songs about self-respect leaders were printed and distributed and pamphlets were issued to explain the movement's aims. Some of these caricatured the characters of the Hindu pantheon. One of them was Vasittira tevarkal kortu (wonderful court of Deities) published in 1919.

The most important of the early activities of the Self-Respect Movement was the convening of the first Provincial Self-Respect Conference at Chingleput on February 17, 1929. The conference proceedings reflected its strong egalitarian bias and its determination to boycott Brahmin priests, its desire to attract young - people and women and above all its commitment to what it considered to be Dravidian civilization.

At this conference many resolutions were passed. One called on members to 'refuse money for the construction of temples or for the employment of priests or intermediaries. Another condemned Varnashrama dharma and arbitrary division of society into Brahmins, Kshatriyas, Vaisyas and Sudras, and Panchamans, and repudiated belief in superiority based on the "accident of birth". Another resolution condemned the use of all suffixes and terminations connotative of

caste. And as for women, a resolution was passed claiming for them the same rights of inheritance as men and advocating that marriage should be terminable at the will of either party. True to their spirit, self-respecters uphold a total disbelief in the religious validity of Brahmins. "Self-Respect weddings" without the use of Brahmin priests became common.

Though some Congress leader like P. Vardarajulu Naidu opposed resolutions, like refusal to give 'fund to temples for renovation purpose, these resolutions remained the main plank of the Self-Respect Movement. But anti-religious tone of the management was moderated by EVR after his visit to the Soviet Union. He toured the Soviet Union for three months as the leader of the Rationalistic; Association of South India, a new name given to the Self-Respect Movement, when he was on tour in Russia, he visited other parts of Europe as well.

The visit to the Soviet Union had a deeper impact on EVR. He was inspired by the "Phenomenal progress" the Russians had made in agriculture and industry and attributed this to Russian systems. He, therefore, maintained that unless / India also made radical changes on the lines of the Soviet system, there would not be any meaningful system in the country.

Soon after the return from the Soviet Union, EVR sought the assistance of Singaravelu Chetti who was a prominent communist in South India to frame a new programme. The new programme envisaged the formation of two wings within the body of Self-Respect League Samadharma (Communist) Party of South India. Both aimed at achieving political independence for the country through constitutional methods, distribution and public transport, amelioration of the condition of the industrial and the agricultural labourers and working with redoubled vigour for the original aims of the Self-Respect Movement. These aims of the two wings of the movement were termed as the Erode Programme.

He carried on his propaganda on Socialism and Social reform through his Kudi Arasu and other organs. But his editorial in Kudi Arasu 'Why today's Government should be overthrown, forced the Government to arrest him and charge' him with inciting the people to overthrow the constituted authority by force." EVR did not challenge the charge but sent a written statement to the court to this effect: "For the last 7 or 8 years I have been propagating the principles of Socialism and in a democratic way with the aim of bringing about social and economic equality among the people. This is in no way an offence. Followers should be prepared to face such repressive measures that might be let loose by the government."

But after his release, he did not stick to political programme of the Self-Respect Movement. He increasingly came to concentrate on the social reform question. Side by side, he carried on a political propaganda as well against the Justice Party for ignoring the interests of the non-Brahmins to defeat the Congress candidates in the municipal and legislative elections. But defeat of the Justice Party candidates in the Legislative elections in 1936 showed that the Justice Party was no longer a political force. But EVR moved closer to the Justice Party rather than to the Congress which won the elections.

The self-respect movement sowed its seed during the Indian freedom struggle. At the earlier stage Backward Class movement meant the non-Brahmin movement. The non -Brahmin movement had two aims

Demanding the sanction of more concessions and privileges (which would cause discrimination against the Brahmins) to surpass Brahmins in education and social status.

Achieving "Swayam Maryada or self-respect.

This movement formed a part of the many social reforms occurred during that period. Periyar E.V Ramaswami was the leader of this movement. It was a popular movement, which occurred in Tamil Nadu in 1925. Its main aim was to improve upon the socio-economic conditions of the low castes Tamils. Later it had profound implications. The main objectives of this movement were inculcation and dissemination of knowledge of political education. Right to lead life with dignity and self-respect and do away with the exploitative system based on superstitions and beliefs. Abolition of the evil social practices and protection of women rights. Establishment and maintenance of homes for orphans and widow and opening of educational institutions for them. This movement gained popularity in no time and became a political platform.

Ramaswami Naicker founded the Dravida Kazhagam in 1945. In 1949 C. Annadurai founded the Dravida Munnetra Kazhagam-DMK which completely wiped out the domination of the Brahmins in Tamil Nadu. The D.K under the leadership of Naicker continue to pursue anti-Brahmanism in social and cultural fields. Thus the aim of the Backward Class Movement at this stage was to limit the Brahmin monopoly in the two fields of education and appointment to government posts. This movement was by no means a mass movement. The opposition to Brahmin dominance did not come from the low and the oppressed castes but from the leaders of the powerful rural dominant castes such as Reddy and Kammas in Andhra, Vokkaligas and Lingayats in Karnataka etc. These were high caste groups with a social position next to the Brahmins. They included not only the Hindus but also the Muslims, Christians and other communities who also suffered from the same social disabilities.

Unit-5

REDRESSAL MECHANISMS

Unit V: Redressal Mechanisms: Protection of Human Rights Act, 1993 (Amendment 2019) – Structure and Functions of National and State Human Rights Commissions – National Commission for SCs – National Commission for STs – National Commission for Women – National Commission for Minorities – Characteristics and Objectives of Human Rights Education.

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The main objective of a Redress Mechanism (RM) is to assist to resolve complaints and grievances in a timely, effective and efficient manner that satisfies all parties involved. It will provide the citizens with a platform for redress of their grievances and describes the informal and formal channels, time frame and mechanisms for resolving complaints about environmental performance. It would provide an effective approach for resolution of complaints and issues of the affected person/community.

PROTECTION OF HUMAN RIGHTS ACT, 1993

Introduction

As a member of the human family, every individual must have some rights against the state or other public authorities, and these rights are known as “human rights”. Human rights are as old as the ancient doctrine of natural rights, which is based on natural law. The term “human rights” as we know it today is a relatively new concept. They are derived from international charters and conventions enacted after World War II.

In India, the Protection of Human Rights Bill, which had already been passed by both Houses of Parliament, got the assent of the President on January 8, 1994. It was thus enacted as The Protection of Human Rights Act, 1993.

Historical background of Protection of Human Rights Act, 1993

The first documented use of the term “human rights” can be found in the United Nations Charter, which was established after World War II in San Francisco on June 25, 1945. This charter was not legally binding. It actually defined the ideal, which would later be developed by many agencies and entities. In December 1948, the United Nations General Assembly took a significant step to ensure the protection of human rights and adopted the Universal Declaration of Human Rights. But the problem was that the UN had no mechanism for enforcing this declaration because it was not a legally enforceable covenant.

The United Nations General Assembly aimed to address the issue by adopting two covenants for the protection of human rights in December 1965: The Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights. The first established legally enforceable individual rights, while the second urged states to put them into effect through legislation.

The two Covenants entered into force in December 1976, after being ratified by the required number of member states. Following that, at the end of 1981, many states, including India, ratified the Covenants. As a result, the ratifying states became legally bound by these covenants.

In the early 1910s, India was globally criticized for the violations of human rights by its armed forces in the state of Jammu and Kashmir. The USA and various other countries from the western world pressured the Indian government to take cognizance of the cases of human rights violations in the country. In addition to the international pressure, there was a considerable demand on the national level for such a law that would deal with the various issues related to human rights violations.

Therefore, considering the demand at the national level and as a constructive reply to the criticism of foreign countries, the Human Rights Commission Bill was first introduced in the Lok Sabha on May 14, 1992. After a deliberate discussion, the Bill was referred to the Parliament's Standing Committee on Home Affairs.

However, in response to international and local demands, the President of India promulgated an Ordinance on September 27, 1993, that established a National Commission on Human Rights. Following that, on December 18, 1993, the Lok Sabha passed a Bill on Human Rights to replace the ordinance, and the Bill became an Act on January 8, 1994. This Act came into force on September 28th, 1993, as provided in Section 1(3) of the Act.

Thus, the commission was established by an ordinance of the President on September 27, 1993. Justice Ranganath Misha, the former Chief Justice of India, was the first chairperson of the commission, appointed on October 12, 1993.

Need for the Protection of Human Rights Act, 1993

1. India is a member of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, both of which have been ratified by the United Nations General Assembly on December 16, 1966. The Constitution substantially protects the human rights enshrined in the aforementioned Covenants. Therefore, it was the need of the hour to enact this law.

2. There was a significant increase in the country and abroad on issues relating to human rights. Considering the changing social realities and emerging trends in the nature of crime and violence, the government reviewed the existing laws, procedures, and systems of justice

administration with a view of bringing greater accountability and transparency to them, and developing efficient and effective methods of dealing with the situation. As a result, the government realized that the enactment of a law that specifically deals with the issues of human rights is now necessary.

3. Numerous conversations were held at various fora, including the Chief Ministers' Conference on Human Rights, seminars hosted throughout the country, and talks with leaders of major political parties. The viewpoints expressed in these discussions strongly urged the enactment of this legislation.

Scope of the Protection of Human Rights Act, 1993

Originally, it was provided in Section 1(2) of the Act that this Act applies to the whole of India and, in the case of Jammu and Kashmir, it applies to the union list and concurrent list only. However, this proviso has been omitted by Act 34 of 2019, and effectively, now this Act extends to the whole of India.

Salient features of the Protection of Human Rights Act, 1993

- ❖ To protect human beings from violations of their rights. "Human Rights" include the right to life, liberty, equality, and dignity, as guaranteed by the constitution.
- ❖ To protect these rights from abuses of power committed by state bodies.
- ❖ To establish an organization for the advancement of existing living beings and the development of their personalities.
- ❖ To provide effective and necessary actions for securing remedies in the event of a violation of rights.
- ❖ The most significant feature of the Act is that it establishes the National Human Rights Commission, State Human Rights Commissions, and Human Rights Courts to prevent and prosecute serious human rights violations.

Important provisions of the Protection of Human Rights Act, 1993

The important provisions of the Act could be divided into four parts as follows:

- ❖ Definition of "Human Rights" [Chapter I, Sec. 2 of the Act]
- ❖ NHRC: Constitution, Functions, Power, and Procedure [Chapters II, III, & IV, Sec. 3-20]
- ❖ SHRC: Constitution, Functions, Power and Procedure [Chapter V, Sec. 21-29]
- ❖ Human Rights Courts [Chapter VI, Sec. 30 & 31]

All of the topics listed above, including the relevant sections and case laws, will be thoroughly covered in the following.

Part I of the Act: Definition of Human Rights

Section 2(d) of the Act defines human rights as individual rights to life, liberty, equality, and dignity guaranteed by the Constitution or recognized in international covenants and enforceable by Indian courts. The abovementioned definition, however, limits the scope of the functions of the National Human Rights Commission. As a result, India ratified only the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. However, the covenants are not directly enforceable as law in Indian courts. Therefore, under the Protection of Human Rights Act 1993, the definition of human rights is firmly limited to the fundamental rights included in Part III of the Constitution, which are enforceable by Indian courts.

THE NATIONAL HUMAN RIGHTS COMMISSION

Constitution of a National Human Rights Commission

(1) The Central Government shall constitute a body to be known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of:

(a) a Chairperson who has been a Chief Justice of the Supreme Court;

(b) one Member who is or has been, a Judge of the Supreme Court;

(c) one Member who is, or has been, the Chief Justice of a High Court;

(d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(3) The Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.

(4) There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission as it may delegate to him.

(5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.

Appointment of Chairperson and other Members

(1) The Chairperson and other Members shall be appointed by the President by warrant under his hand and seal.

Provided that every appointment under this sub-section shall be made after obtaining the recommendations of a Committee consisting of

- (a) The Prime Minister —Chairperson
- (b) Speaker of the House of the People — Member
- (c) Minister in-charge of the Ministry of Home Affairs in the Government of India — Member
- (d) Leader of the Opposition in the House of the People — Member
- (e) Leader of the Opposition in the Council of States — Member
- (f) Deputy Chairman of the Council of States — Member

Provided further that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Committee.

Removal of a Member of the Commission

(1) Subject to the provisions of sub-section (2), the Chairperson or any other Member of the Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.

(2) Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be

- (a) is adjudged an insolvent; or
- (b) engages during his term of office in any paid employment out side the duties of his office: or
- (c) is unfit to continue in office by reason of infirmity of mind or body; or
- (d) is of unsound mind and stands so declared by a competent court; or
- (e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

Term of office of Members

(1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years. Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State.

Member to act as Chairperson or to discharge his functions in certain circumstances

(1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Terms and conditions of service of Members

The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed. Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

Vacancies, etc., not to invalidate the proceedings of the Commission.

No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

Procedure to be regulated by the Commission

(1) The Commission shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be audited by the Secretary-General or any other officer of the Commission duly authorised by the Chairperson in this behalf.

Officers and other staff of the Commission

(1) The Central Government shall make available to the Commission:

(a) an officer of the rank of the Secretary to the Government of India who shall be the Secretary-General of the Commission; and

(b) such police and investigative staff under an officer not below the rank of a Director General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the Commission.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the Commission

The Commission shall perform all or any of the following functions, namely :

(a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf, into complaint of

(i) violation of human rights or abetment thereof or

(ii) negligence in the prevention of such violation,

by a public servant;

(b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

(c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;

(d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;

(e) review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;

- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) undertake and promote research in the field of human rights;
- (h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- (i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;
- (j) such other functions as it may consider necessary for the protection of human rights.

Powers relating to inquiries

(1) The Commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters, namely :

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

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.

(3) The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(5) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code, and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Investigation

(1) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-section (1) may, subject to the direction and control of the Commission.

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office.

(3) The provisions of section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency whose services are utilised under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report subbed to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

Statement made by persons to the Commission

No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement —

- (a) is made in reply to the question which he is required by the Commission to answer; or
- (b) is relevant to the subject matter of the inquiry.

Persons likely to be prejudicially affected to be heard

If, at any stage of the inquiry, the Commission-

- (a) considers it necessary to inquire into the conduct of any person; or
- (b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry;

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

CHAPTER IV

PROCEDURE

Inquiry into complaints

The Commission while inquiring into the complaints of violations of human rights may-

- (i) call for information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto within such time as may be specified by it;

Provided that-

- (a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;
- (b) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly;

(ii) without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

Steps after inquiry

The Commission may take any of the following steps upon the completion of an inquiry held under this Act namely:

(1) where the inquiry discloses, the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;

(2) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(3) recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;

(4) subject to the provisions of clause (5), provide a copy of the inquiry report to the petitioner or his representative;

(5) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

(6) the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

Procedure with respect to armed forces

(1) Notwithstanding anything contained in this Act, while dealing with complaints of violation of human rights by members of the armed forces, the Commission shall adopt the following procedure, namely :

(a) it may, either on its own motion or on receipt of a petition, seek a report from the Central Government;

(b) after the receipt of the report, it may, either not proceed with the complaint or, as the case may be, make its recommendations to that Government.

(2) The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow.

(3) The Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations.

(4) The Commission shall provide a copy of the report published under sub-section (3) to the petitioner or his representative.

Annual and special report of the Commission

(1) The Commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The Central Government and the State Government, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

STATE HUMAN RIGHTS COMMISSIONS (SHRC)

The State Human Rights Commission was constituted in the state of Tamil Nadu on 17.4.1997 in accordance with the powers conferred on the State under section-21 of the Protection of Human Rights Act, 1993. Tamil Nadu is one of the very few States which has constituted a Commission for the Human Rights.

Constitution of the State Human Rights Commission, Tamil Nadu

This Commission was constituted in accordance with the powers conferred on the State under section-21 of the Protection of Human Rights Act, 1993 (Central Act 10 of 1994) the exercise the powers conferred upon and perform the functions assigned to it provided under this Act.

Tamil Nadu is one of the very few States which has constituted a Commission for the Human Rights.

It would not be out of place to mention that India was a party to the International covenant on civil and political rights and the international covenant to Economic, Social and Cultural rights, both of which were adopted by the United Nations General Assembly on 16th December 1966 and the rights embodied in those covenants stood substantially protected by the Constitution of India. Having regard to this, and to the changing social realities and emerging trends in the nature of crime and violence, it had been considered essential to review the existing laws a procedure and the system of administration with a view to bringing about greater efficiency and

transparency, the Government of India constituted National Human Rights Commission 12th October 1993 and for the same reasons and objects and with a view to provide easy a close access to the needy victims of violation, the State Human Rights Commission was constituted in the state of Tamil Nadu on 17.4.1997. At the time of constitution, Tamil Nadu was the fifth State to form this Commission, the others being the States of West Bengal, Madhya Pradesh, Assam and Himachal Pradesh. Two other States Punjab and Jammu and Kashmir have since constituted the State Commission.

As under section 21 of the above Act, the Government in its order in G.O.Ms. 1465 1466 Public (L&O) Dept. dated 20.12.1996, constituted the State Human Rights Commission with the following members:

- a) A Chairperson who has been a Chief Justice of the High Court.
- (b) One member who is or has been a judge of the High Court.
- (c) One Member who is or has been a judge of the District Court.
- (d) Two members to be appointed from amongst persons having knowledge of or practical experience, in matters relating to human rights.
- (e) One Secretary not below the rank of the Secretary to Government who shall be the (Executive Officer of the State Commission.

In accordance with section 22 of the Act, the Chairperson and Members of the Commission were appointed by the Governor on the basis or the recommendations of the Committee comprising the Chief Minister as the Chairperson and the Speaker of the Legislative Assembly the Minister in charge of the Dept. of Home, Leader of Opposition in the Legislative Assembly as Members.

In accordance with section 26 of the Act, the State Government has notified the salaries ; allowances payable to the Chairperson and Members of the Commission as also the terms and conditions of their services in its order in G.O.Ms.No. 1465, Public (L&O) dated 20.12.1996.

In exercise of the powers conferred on it by Section 10 (2) of the Act, the Commission has issued regulations, governing the procedures to be followed in the conduct of its business and the same have been duly notified in the Government Gazette.

It may also be seen from the provisions of the section 27 of the Protection of Human Rights Act 1993, that the Commission will be equipped with an Investigative wing, Technical Wing and a scientific wing and, in effect, Section 27 1 (b) and 2 reads as follows:

Officers and staff of the State Commission.

The State Government shall make available to the commission:

(a) Such police and investigative staff under an Officer not below the rank of an Inspector General of Police and such other Officers and staff as may be necessary for the efficient performance of the functions of the State Commission.

(b) Subject to such rules as may be made by the State Government in this behalf, the State Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

Objectives

Protection and promotion of human rights constitute the principal concern of the Commission. Pursuant to this objective, the Commission is committed to discharge its functions assigned to it under the Act with transparency and autonomy. The autonomy of the Commission emanates, inter alia, from the procedures relating to the appointment of the Members, the security of their tenure, their stature, the safeguards provided under Section 23 and 24 of the Act and the status accorded to the Commission under overall scheme of the Act. The financial autonomy of the Commission is implied under provisions of Section 33 of the Act. The procedures adopted by the Commission to conduct its proceedings, the suo motu action taken on complaints regardless of the sources received, the openness of its proceedings and the placement of its reports before the State Legislature are key to the strength and transparency of the Commission's functioning.

Functions of the SHRC

The functions of the SHRC include considerable scope and range of the functions envisaged for the Commission under sec 12 of the Act, "all or any" of which except what is stated under clause (f) of the section relating to treaties and other International instruments on Human Rights which can be dealt with by the National Human Rights Commission only, are to be performed by this Commission. These functions are to:

(a) inquire suo motu or on a petition presented to it, by a victim, or any person on his behalf into complaint of

(i) Violation of human rights or abetment thereof;

(or)

(ii) Negligence in the prevention of such violation by a public servant.

(b) Intervene in any proceeding involving any allegation of violation of human rights, per before a Court with the approval of such Court.

(c) visit under intimation to the State Government, any jail or any other institution under the control of the State Government where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon:

- (d) Review the safeguards provided by or under the constitution of any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.
- (e) Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- (f) Not applicable to State Human Rights Commission.
- (g) undertake and promote research in the field of human rights.
- (h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the n seminars and other available means.
- (i) encourage the efforts of Non-Governmental organisations and institutions working in the field of human rights.
- (j) such other functions as it may consider necessary for the promotion of human rights.

The Protection of Human Rights Act, 1993

An Act to provide for the constitution of a State Human Rights Commission in States and Human Rights Courts for better protection of Human Rights and for matters connected therewith or incidental thereto

Constitution of State Human Rights Commissions

- (1) A State Government may constitute a body to be known as the..... (Name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this chapter.
- (2) The State Commission shall consist of
 - (a) a Chairperson who has been a Chief Justice of a High Court;
 - (b) one Member who is, or has been, a Judge of a High Court;
 - (c) one Member who is, or has been, a district judge in that State;
 - (d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.
- (3) There shall be a Secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharge such functions of the State Commission as it may delegate to him.

(4) The headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.

(5) A State Commission may inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution:

Provided that if any such matter is already being inquired into by the Commission or any other Commission duly constituted under any law for the time being in force, the State Commission shall not inquire into the said matter:

Provided further that in relation to the Jammu and Kashmir Human Rights Commission, this sub-section shall have effect as if for the words and figures "List II and List III in the Seventh Schedule to the Constitution", the words and figures "List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir and in respect of matters in relation to which the Legislature of that State has power to make laws" had been substituted.

Appointment of Chairperson and other Members of State Commission

(1) The Chairperson and other Members shall be appointed by the Governor by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of

(a) the Chief Minister — Chairperson

(b) Speaker of the Legislative Assembly — Member

(c) Minister in-charge of the Department of Home, in that state — Member

(d) Leader of the Opposition in the Legislative Assembly — Member

Provided further that where there is a Legislative Council in a State, the Chairman of that Council and the Leader of the Opposition in that Council shall also be members of the Committee.

Provided also that no sitting Judge of a High Court or a sitting District Judge shall be appointed except after consultation with the Chief Justice of the High Court of the concerned State.

(2) No appointment of a Chairperson or a Member of the State Commission shall be invalid merely by reason of any vacancy in the Committee.

Removal of a Member of the State Commission

(1) Subject to the provisions of sub-section (2), the Chairperson or any other member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.

(2) Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be –

(a) is adjudged an insolvent; OR

(b) engages during his term of office in any paid employment outside the duties of his office; OR

(c) is unfit to continue in office by reason of infirmity of mind or body; OR

(d) is of unsound mind and stands so declared by a competent court; OR

(e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

Term of office of Members of the State Commission

(1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier;

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years;

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of a State or under the Government of India.

Member to act as Chairperson or to discharge his functions in certain circumstances

(1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the Governor may, by notification, authorise in this

behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Terms and conditions of service of Members of the State Commission

The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed by the State Government.

Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

Officers and other staff of the State Commission

(1) The State Government shall make available to the Commission

(a) an officer not below the rank of a Secretary to the State Government who shall be the Secretary of the State Commission; and

(b) such police and investigative staff under an officer not below the rank of an Inspector General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the State Commission.

(2) subject to such rules as may be made by the State Government in this behalf, the State Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.

Annual and special reports of State Commission

(1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum of action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptance of the recommendations, if any.

Application of certain provisions relating to National Human Rights Commission to State Commissions

The provisions of sections 9, 10, 12, 13, 14, 15, 16, 17 and 18 shall apply to a State Commission and shall have effect, subject to the following modifications, namely :-

- (a) references to "Commission" shall be construed as refer ences to "State Commission";
- (b) in section 10, in sub-section (3), for the word "Secretary General", the word "Secretary" shall be substituted;
- (c) in section 12, clause (f) shall be omitted;
- (d) in section 17, in clause (i), the words "Central Government or any" shall be omitted;

Conclusion

People in India are now well aware of their constitutional rights, and this is because of the enactment of the Protection of Human Rights Act, 1993, and the establishment of the National Human Rights Commission (NHRC). The State Human Rights Commissions are also working along the same lines as the National Human Rights Commission. However, it still demands that the Special Courts/Human Rights Courts, as defined in Section 30 of the PHR Act, be continued in order to provide a speedy trial for offenses resulting from violations of human rights. Apart from that, human rights commissions in India need to be revamped if they are to truly protect human rights in the country. If the decisions and recommendations of the commission were made enforceable by the government as well, their efficacy and authority would be greatly enhanced. Misuse of laws by authorities is widely recognized as the root cause of human rights violations. Therefore, the NHRC should be provided more powers for the speedier disposal of cases.

National Commission for SCs and STs

Introduction

Caste-based discrimination has been prevalent in India for ages. Putting relevance on the same with the aim to control, and thereby erase such prejudice, Dr. B.R. Ambedkar, also being the Chairman of the Drafting Committee, along with other members of the Constituent Assembly, wanted to mandate protection to backward classes by means of the supreme law of India, the Constitution. These communities came to be known as Scheduled Castes and Scheduled Tribes by Clause 1 of Articles 341 and 342 of the Constitution respectively. Followed by this, Articles 338, and 338-A of the Constitution of India lays down the provision for the establishment of the National Commission for the Scheduled Castes and Scheduled Tribes respectively. Both the national commissions are constitutional bodies unlike the other national commissions like the National Commission for Women, the National Commission for Protection of Child Rights, and others which are statutory bodies. This article discusses the two national commissions set up with the aim of ensuring socio-economic development in democratic India.

Evolution of the commissions

As have been mentioned earlier, Articles 338, and 338-A mandates the establishment of the national commissions for SCs, and STs with the aim of improving their living conditions,

availability of resources, safeguarding their interests, agricultural practices thereby accelerating socio-economic growth.

National Commission for SCs

The events which contributed towards the formation of the National Commission for the Scheduled Castes have been presented hereunder;

1. 1978: By means of a resolution, the Government had set up a non-statutory, multi-member Commission for Scheduled Castes and Scheduled Tribes along with which the Office of Commissioner continued to exist as well.
2. 1987: The previously established Commission in 1978 came to be known as the National Commission for SCs and STs.
3. 1990: By the 65th Constitutional Amendment, a multi-member National Commission for SCs and STs replaced the Commissioner for SCs and STs.
4. 2003: By the 89th Constitutional Amendment, the National Commission for SCs and STs got divided into two separate bodies, namely, National Commission for Scheduled Castes (under Article 338) and National Commission for Scheduled Tribes (under Article 338-A).
5. 2004: The National Commission for SCs came into existence with a Chairperson, a Vice-Chairperson, and three other members.

There have been 6 National Commissions for SCs that have been constituted between 2004 to 2021 namely;

1. The first National Commission for Scheduled Castes (NCSC) was on 24th February 2004.
2. The second National Commission for Scheduled Castes (NCSC) on 25th May 2007.
3. The third National Commission for Scheduled Castes (NCSC) on 15th October 2010.
4. The fourth National Commission for Scheduled Castes (NCSC) on 22nd October 2013.
5. The fifth National Commission for Scheduled Castes (NCSC) on 1st June 2017.
6. The sixth National Commission for Scheduled Castes (NCSC) on 24th February 2021 with Shri Vijay Sampla as the Chairperson, Shri Arun Halder as the Vice-Chairman, Shri Subhash Ramnath Pardhi, and Dr. Anju Bala as the members.

It is to be noted that the President by warrant under his hand and seal appoints, and determines the tenure, service conditions of the Chairperson, Vice-Chairman, and the members of the Commission.

National Commission for STs

Formed by Article 338A of the Indian Constitution, the National Commission for Scheduled Tribes (NCST) was constituted on 19th February 2004. It is necessary to note that Scheduled

Castes are different from the Scheduled Tribes in terms of their culture, tradition, and other background elements, because of which, special attention was called for resulting in the formation of a constitutional body that will specifically focus on the Scheduled Tribes community of India. Working in the same line as the National Commission for SCs, the NCST till the present date has been constituted three times which was the result of the 89th Amendment Act, 2003, namely;

1. The first commission was formed on 19th February 2004.
2. The second commission commenced on 14th June 2007.
3. The third commission was formed on 21st July 2010.

Dr. Rameshwar Oraon has been re-appointed as the Chairperson of the Commission for the 2nd time followed by this, Shri Ravi Thakur was designated to the Vice-Chairperson position. But the members who were appointed, due to their sudden demise, have left the two members' seats vacant for the current commission. Just like the National Commission for the Scheduled Castes, it is the President who has been vested with the power to appoint and to determine the tenure, and conditions for service for the Chairperson, Vice-Chairperson, and members of the Commission.

Functions of the Commissions

Both the Commissions have the common aim of improving the socio-economic conditions of the backward communities recognized by the Constitution as Scheduled Castes, and Scheduled Tribes. But in order to achieve the same, certain functions allotted to these commissions have to be taken into account.

Functions of the National Commission for Scheduled Castes

The functions of the National Commission for Scheduled Castes are provided hereunder;

1. The National Commission for SCs has been vested with the responsibility of conducting investigation and looking after matters in association with the legal rights of the Scheduled Castes.
2. The NCSC advises and plans a process in which socio-economic development can be achieved at both Central, and state levels, thereby taking into account the deprivation aspects in relation to the Scheduled Castes community.
3. The NCSC inquires into complaints that are brought before it concerning the absence of application of the rights, safeguard measures that have been guaranteed by the Indian Constitution to this community.
4. As it is the President who decides the appointment, term, and other related things concerning the designated individuals of the Commission, it is the responsibility of the Commission to submit annual reports on work progress, and fulfillment of the duties

vested to the President. This helps in growth and increases the efficiency of the Commission.

5. The Commission is vested with the responsibility of recommending measures that if implemented will help in assuring the application of the legal measures that have been provided to safeguard the welfare, social, and economic development of the Scheduled Castes.
6. Along with all the above functions, the Commission has to discharge all such functions which revolve around welfare development, safeguarding culture, traditions, and other related subject matters concerning the Schedule Castes.

Functions of the National Commission for Scheduled Tribes

The functions of the National Commission for Scheduled Tribes are laid down hereunder;

1. The National Commission for Scheduled Tribes carries out an evaluation of the progress in the planning process for social, and economic up-gradation of the Scheduled Tribe Community.
2. Just like the NCSC, the NCST also has been vested with the responsibility of inquiring into complaints brought before it that concern the impoverishment of the rights available for the Scheduled Tribes, and to investigate the working of the constitutional safeguards provided for this community.
3. The Commission must keep track of the status of the development of the Scheduled Tribes at both Union and provincial levels.
4. The Commission is obligated by the President's orders and therefore, has to perform all such functions which the President specifies.

Along with these functions, there are certain measures that are to be adopted by the Commission in respect to ownership rights of the tribes in association with forest areas;

1. The Commission must ensure that certain measures need to be taken to protect the rights of the Scheduled Tribes with regard to natural resources.
2. For the tribal groups who have been displaced due to unavoidable circumstances, then it is the responsibility of the Commission to take steps to improve the standards of living for them thereby facilitating them with minimum necessities for living.
3. Prevention of alienation of the tribal groups, and those who have already been alienated is the sole responsibility of the Commission, and therefore, measures should be adopted to ensure the same.
4. The Commission should be in charge of protecting the forests by means of undertaking social afforestation and involving the tribal communities to take an active part in the same for better functioning of the social, and environmental policies undertaken. These policies should also work towards erasing shifting cultivation practiced by several tribal communities which is responsible for degrading both the land and the environment.

5. The provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, must be implemented so as to provide adequate benefit to the Scheduled Tribes.

A check on the above-mentioned functions of the Commissions is carried out by the President of India after the Commissions submit their reports which must be accompanied by a memorandum whose purpose is to explain the actions adopted on the Commission's recommendations. The report is further forwarded to the state government, and the governor by the President, after which the governor places the same before the state legislature.

Powers of the commissions

Both the Commissions being constitutional bodies have the power to regulate their own procedures. Followed by which these bodies have been vested with all the powers of a civil court. Taking a cue from the same, the powers of the NCSC, and NCST have been presented hereunder;

1. The NCSC is vested with the power to discover and produce documents that concern the development of the tribal communities;
2. The Commission has the power to receive evidence on affidavits as well;
3. With civil court powers being vested on the Commission, it has the authority to issue a summons for examination of documents, or witnesses;
4. Both the Central and the State governments can seek advice from the Commissions whenever necessary for the purpose of policy-making.
5. Along with the above-mentioned powers, there can be add-on powers that will be determined by the President of the nation.

Conclusion

As we come to the end of this article, it is noteworthy to mention that both the National Commissions put under the spotlight have been successful in achieving socio-economic development of the Scheduled Castes, and Scheduled Tribes communities to a reasonable extent. An initiative by the Government of India such as Tribal Sub Plan (TSP) strategy, online grievance portal, and several others have been brought up with such potentials which can help in eliminating the term "backward" that has been attached with these communities for decades. The National Commission for Scheduled Castes has taken note of the recent judgment of the Supreme Court of India which issued a direction in the case of Dr. Subhash Kashinath Mahajan against the Bombay High Court Judgment on misuse of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amended Act 2015), and the implementation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amended Act 2015). This shows that these constitutional bodies are working in cooperation with different organs of the government to fulfill the purpose behind their establishment.

National Commission for Women (NCW)

The National Commission for Women was formed with an intention to establish an equal and just livelihood for women by making legal and constitutional amendments for women in India. The Violence against Women is a fundamental violation of human rights, across nations, societies, cultures and classes and to stop this violation of the fundamental right; this Commission was formed.

Problems faced by the women in the country has been one of the biggest concerns of the Government and other authorities. Over the years, many Commissions have been set up by the Government to look into the welfare of Women in the country. According to the reports of these commissions, all of them state the necessity of setting up an apex body for reviewing and addressing the grievances of women in the country. The demand for setting up a body persisted for long and ultimately to keep the interest of the people, the National Commission for Women Bill 1990 was introduced in the Lok Sabha on 22nd May 1990.

National Commission for Women

The National Commission for Women was set up in 1992 under the National Commission for Women Act, 1990. This body was established to review the constitutional and legal safeguards for women.

It recommends the remedial legislative measures, facilitates redressal of grievances and advises the government on all policy matters affecting women. It enjoys all the powers of a civil court.

The first commission was constituted on 31st January 1992 as Jayanti Patnaik as the chairperson. Alok Rawat IAS is the first male member of the National Commission for Women (NCW). His appointment filled the 4th seat on the five-member body. Ms Rekha Sharma is the current Chairperson of the National Commission for Women. She took over Lalitha Kumaramangalam as the new Chairperson in September 2018.

Composition of National Commission for Women

The Commission must consist of a minimum number of members which includes a chairperson, a member secretary, and the other five members.

Chairperson: The central government should nominate the chairperson.

Five members: The five members are also to be nominated by the central government from amongst the person of ability, integrity, and standing. They should possess experience in various fields like law or legislation, trade unionism, management of industry potential of women, women's voluntary organization, education, administration, economic development, and social good-being.

Member Secretary: The Central Government also nominates member secretary. He/ she should be either an expert in the field of management, an organization, or an officer who is a member.

Functions of National Commission for Women

Inquiry and Investigation

The National Commission of Women enjoys the powers of a civil court. It investigates and examines the matters related to the safeguards ensured for feminine society under the Constitution of India. It took complaints suo moto notice of issues related to the non-implementation of laws and non-enforcement of laws and non-compliance of policy decisions, guidelines enacted and aimed at mitigating hardships ensuring the welfare and then take up issues arising out of matter with the concerned authorities.

Action Research

NCW members take part in the planning process of socio-economic development of women, propose measures to encourage their representation in all spheres, and review their advancement. It also examines the safeguards provided for women in the Constitution and other laws study their working, recommend amendments to meet any inadequacies or deficiencies, and advocate measures for effective implementation.

Legal Intervention

The Parivarik Mahila Lok Adalat, (PMLA) is an innovative component with its roots in the traditional Nyaya Panchayats. It is created by NCW for the redressal and speedy disposal of cases. It has taken up 7500 cases so far. The essential feature of PMLA is cordial mutual settlement and flexibility in implementation, aiming to empower women in the justice delivery mechanism.

The Commission shall perform all or any of the following functions:

1. **Investigation and Examination:** Investigate and examine all the matters relating to the safeguards provided for the women under the Constitution and other laws
2. **Presentation of Reports:** Table reports to the Central Government, every year and at such other times as the Commission may deem fit, reports upon the working of those safeguards
3. **Recommendations:** Make in such reports and recommendations for the effective accomplishment of those safeguards for enhancing the conditions of the women by the Union or any State.
4. **Review,** every now and then, the current provisions of the Constitution and other laws distressing the women and prescribe alterations and suggest curative legislative measures meet any break, inadequacies, and incapacity in such legislation.

5. **Cases of Violation:** Take up cases of infringement of the provisions of the Constitution and of other laws relating to the women with the relevant authorities
6. **Suo Moto Notice:** It looks into complaints, and takes Suo Motto notice of matters relating to – deprivation of women's rights, Non-implementation of the laws, and Non-compliance of policy decisions guaranteeing the welfare for women society.
7. **Special Studies and Investigation:** It conducts special studies or investigation on the concerning issues or circumstances emerging out of segregation and outrages against ladies and recognizes the limitations in order to suggest techniques for their expulsion
8. **Research:** Undertake the promotional and educational research so as to propose ways of ensuring due representation of women in all fields and identifies the factors responsible for impeding the support services and technologies for reducing drudgery and professional health hazards and for escalating their efficiency.
9. **Participation in all spheres particularly in Planning:** take part and advice on the planning process of socio-economic development of women
10. **Evaluation:** assess the progress of the development of women society under the Union and State.
11. **Inspection:** investigate or cause to be inspected a jail, remand home women's establishment or other places of guardianship where ladies are kept as detainees.
12. **Funding:** fund litigation, relating issues affecting a large body of women.
13. **Reporting:** make periodical reports on any issue pertaining to women and in particular various difficulties under which women toil.

Complaints and Counseling Unit of National Commission for Women

This cell is the Core unit of the commission and pro members. The power selecting members is vested with the Union Government and the nature of the country's volatile political scenario tends the commission to be politicized.

The jurisdiction of the commission is not operating cesses the complaints received oral, written, or suo moto under Section 10 of the NCW Act. The complaints received relate to domestic violence, harassment, dowry, torture, desertion, bigamy, rape, and refusal to register FIR, cruelty by husband, deprivation, gender discrimination, and sexual harassment at the workplace.

The complaints are dealt with and tackled in various ways such as Investigations by the police are expedited and monitored, disaggregated data are made available to various state authorities to facilitate action, family disputes are resolved or compromised through counselling.

List of Women-Specific Legislation

There are multiple laws that have been passed for the safety and rights of women in India. Given below is a list of few such laws:

1. The Immoral Traffic (Prevention) Act, 1956

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

National Commission for Minorities

The setting up of Minorities Commission was envisaged in the Ministry of Home Affairs Resolution dated 12.01.1978 which specifically mentioned that, "despite the safeguards provided in the Constitution and the laws in force, there persists among the Minorities a feeling of inequality and discrimination. In order to preserve secular traditions and to promote National Integration the Government of India attaches the highest importance to the enforcement of the safeguards provided for the Minorities and is of the firm view that effective institutional arrangements are urgently required for the enforcement and implementation of all the safeguards provided for the Minorities in the Constitution, in the Central and State Laws and in the government policies and administrative schemes enunciated from time to time. In 1984 the Minorities Commission was detached from Ministry of Home Affairs and placed under the newly created Ministry of Welfare.

With the enactment of the National Commission for Minorities Act, 1992, the Minorities Commission became a statutory body and renamed as National Commission for Minorities. 2.1 The first Statutory National Commission was set up on 17th May 1993. Vide a Gazette notification issued on 23rd October 1993 by Ministry of Welfare, Government of India, five religious communities viz; the Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis) were notified as minority communities. Further vide notification dated 27th Jan 2014, Jains have also been notified as minority community. As per the 2011 Census, these six religious minority communities constitute 18.80% of the country's population.

Religion	Number (In crores)	%
Muslims	17.22	14.2
Christians	2.78	2.3
Sikhs	2.08	1.7
Buddhists	0.84	0.7
Jains	0.45	0.4
Source : Census 2011		

Functions of NCM

As per Section 9(1) of the NCM Act, 1992, the Commission is required to perform following functions:-

- (a) evaluation of the progress of the development of minorities under the Union and States;
 - (b) monitoring of the working of the safeguards for minorities provided in the Constitution and in laws enacted by Parliament and the State Legislatures;
 - (c) making recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the Central Government or the State Governments;
 - (d) looking into specific complaints regarding deprivation of rights and safeguards of minorities and taking up such matters with the appropriate authorities;
 - (e) getting studies to be undertaken into the problems arising out of any discrimination against minorities and recommending measures for their removal;
 - (f) conducting studies, research and analysis on the issues relating to socio-economic and educational development of minorities;
 - (g) suggesting appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments;
 - (h) making periodical or special reports to the Central Government or any matter pertaining to minorities and in particular the difficulties confronted by them; and
 - (i) any other matter, which may be referred to it by the Central Government.
- 2.3 Section 2 (c) of NCM Act, 1992 stipulates that 'Minority' for the purposes of the Act, means a community notified as such by the Central Government. Therefore, all the functions of the Commission as laid down in Section 9(1) of the Act are related to the six notified communities.

National Commission for Minorities (NCM): Powers

The commission has all the powers of a civil court. In exercising its powers, NCM can -

Summon and enforce the attendance of any person from any part of India and examine him on oath.

- ❖ Request the discovery and production of any document.
- ❖ Receive evidence on affidavits.
- ❖ Requisitioning any public record or copy thereof from any court or office.
- ❖ Issuing commissions for the examination of witnesses and documents.
- ❖ Any other matter may be prescribed.

Complaints from notified minority communities.

The complaints now being received are mostly related to police atrocities, service matters, minority educational institutions and encroachments to religious properties. Reports are called for from the concerned authorities under the Union and State Governments. On receipt of the reports, the Commission makes appropriate recommendations to the respective authorities for redressal of the grievances.

HUMAN RIGHTS EDUCATION

Human Rights Education is defined as “the learning of law of human rights, its history, theory, etc.” Education is necessary to develop human personality and it is helpful to strength human rights & fundamental freedom of the individual.

The importance of human rights education in a student’s career. In, India, UNESCO has a role in human rights laws. It talks about the Indian human rights education system and UDHR’s (Universal Declaration of Human Rights) provisions support it & UNESCO provides guidelines in the context of Human Rights in India

Objectives

According to Universal Declaration of Human Rights, “The main objective to get a common standard of achievement for all nations and its peoples. And all provisions of the declaration shall strive by teaching and education to promote respect for these rights and freedom; and to secure their universal and effective recognition and observance⁶.” The learning objectives of human rights education are, to learn about human rights, to learning for human rights and learning through and learning about human rights. Human rights education aims to do the following:

- ❖ Enhance the knowledge and understanding of human rights.
- ❖ Foster attitudes of tolerance, respect, solidarity, and responsibility.
- ❖ Develop awareness of how human rights can be translated into social and political reality.
- ❖ Develop skills for protecting human rights.

Human rights education: A movement

Human rights education has become a burning topic for learners, researcher as well as teachers. Human right education has many varieties and continually changing the field and respond to the development of the world society. Nowadays, in classroom human rights education discusses with various names like Conflict Resolution, Multicultural Education, Development Education, World Order Studied, Environment Studies & ADR, Restore active Justice Education By this we can detect the causes of social injustice, conflict, and war-threat, etc. these

topics connect with the preventive education when prevention comes for social injustice, conflict, and war-threat, etc. like problems. But these topics help to establish peace and secure the social norms of the society which may be dangerous in conflicts.

What can be educated in human rights?

A vital information about human rights can be used for teaching, like that to teach about the responsibility of the nation, parents, democracy, etc. are many areas which can be used as study material for the human rights education. Different views of societies, social & religious groups upon Human Rights and Experiences of the researchers about such rights; and it shall be supported by the social changes & historical events which are necessary to develop a great nation.

Human Rights Education is not a just name & topic but it is interconnected with many other areas like that-

- ❖ Gender Education
- ❖ Social & Moral Education
- ❖ Citizenship Education
- ❖ Peace
- ❖ Sustainable Development
- ❖ Anti-Racism
- ❖ Inter Cultural Education, etc.,

Three dimensions to the promotion of human rights education in human beings:

- ❖ Knowledge which helps to provide information about human rights and such mechanisms that stay to protect those rights.
- ❖ By the development of values, beliefs, and attitudes which promote the human rights culture.
- ❖ Awareness programs which will encourage people to prevent human rights abuse and defend human rights

Model of human rights education

There are three models of Human Rights Education which are generally used in the world including India.

1. Awareness & Value Model
2. Accountability Model
3. Transformation Model

These 3 have different approaches; the awareness model highlights basic knowledge of human rights issues and to promote the growth of human rights integration into public values. The value & awareness model includes health and hygiene issues, environmental issues and consumer rights matter. The accountability model is related with a political approach as well as legal approach, in which it covers the area of the case study, codes of ethics, media dealing, transparency in the system, the right to information, training & networking, etc. The transformation model is more effective than the other two. This model has psychological and sociological approach & its main objective to empower the individual. It talks about stop abuse.

Need of human rights education in India

Nowadays, moral and ethical values in education system of India are declining; results, we saw in recent years; a fifteen years old student killed his Hindi teacher in Chennai & In last year two school students killed their principle and same in 2017, in Delhi, two minor school students murdered their school principal. It shows that our education system completely lost its norms & ethical values. It is very harmful to the democracy & dignity of individuals; which are covered by human rights as well as constitutional rights; so, that In India, it is strongly recommended to add human rights education as a subject at primary level as well as in higher education.

Knowledge is the best defense for human beings to protect their rights violation; education is the basic source which will provide the information about the human rights. Learning about the one's rights which build about others' rights and which helps to establish a peaceful and tolerant society. The promotion of human rights can be fulfilled with the mass awareness program about human rights issues. Due to these programs, we will get help to reduce the violence of Human rights.

The National Human Rights Commission of India; the Indian Institute for Peace, Disarmament and Environmental Protection (IIPDEP); and many NGOs have launched a public information campaign for human rights countrywide. Its main objectives to make everyone more conscious of human rights and fundamental freedoms and better equipped to stand up for them. At the same time, the campaign spreads knowledge of the means which exist at the international and national levels to promote and protect human rights and fundamental freedoms. IIPDEP²² and many NGOs work to make school authorities and the general public aware of civic education and to know about their birth rights. They focus on developing knowledge, skills, and attitudes needed to apply fundamental human rights and freedom and, consequently, the non-violent resolution of conflict.

Freedom is considered a fundamental tool to respect guarantee for the rights of all. is not aware of protection of individual's human rights, it can be a danger for the democracy. For

securing democracy in India, human rights education should be compulsory, through this, peoples will aware about their basic rights.