



HUMAN RIGHTS

UNIT-1

Introduction to Human Rights





CHAPTER 1 : INTRODUCTION TO HUMAN RIGHTS

What does it mean to be a human being? How are human beings different from the other living beings?

In terms of life sciences, humans are primates of the family of homo-sapiens wherein they belong to the genus, homo and species, sapiens.

In history, human beings have been described as civilized living beings capable of communicating with the help of language and those who started the system of living in an organized society.

In political science, human beings have been defined as those social or political living beings who developed the system through which a human society would function in an organized and lawful manner. Peaceful coexistence is the basis of our life and thus it is important to have respect as well as protect the life of each other.

As human beings, we think and articulate thoughts, we also have a sense of right and wrong, which is our conscience, but are different in colour, gender, size and even shape. We are still human and enjoy the same basic human rights.

1.1 What do rights mean?

Rights are those claims and demands of an individual or group of individuals to good life which are accepted by the community or society as essential for the common good and recognized by the State. In other words, rights are also those essential factors without which human life cannot be sustained.

1.2 What are Human Rights?

How often have you come across a scene where a person is deprived of the dignity and the care that each human being has a right to? Such a right, which is basic to human existence, is a human right.

Human rights, as the term is most commonly used, are basic entitlements bestowed upon each and every human being by virtue of birth. The underlying idea of such rights is to ensure that all men, women and children are treated with respect and dignity. For example, it is our birthright that all of us should be given equal treatment and should not be discriminated against on any account due to differences of religion, caste, class, colour, gender or anything else either by the State or the community or for that matter, the family. This is because each person is special with their own individual talents and abilities and none are inferior or superior to the other. Likewise, it is our birthright to have access to opportunities, whereby we can develop to our fullest potential and achieve all that we aspire for. These rights include the right to life, freedom and justice. These rights guarantee our dignity as human beings. It is precisely for these reasons that human rights are sometimes called 'natural rights'.

1.3 Nature of Human Rights

The fact that nobody gives us these rights nor can anyone take away these rights from us, as human rights are said to be 'inalienable'. Human rights are also recognized as being 'universal, interrelated and indivisible'. This means that they belong to everyone, irrespective of one's religion, community, caste, class, gender, and age, social or economic status. Furthermore, respect for civil and political

Read and Respond

Developing Human Rights for a new island

Imagine yourself to be on an island that has all the basic requirements to sustain human life. No one has ever lived there. There are no laws, no rules, and no history. Being the first settlers there, you and your group have been assigned to develop the bill of rights for the island. You are not aware of the position you will hold on this island.

Give this new island a name. Decide on ten rights that the whole group can agree upon and list them on a sheet of chart paper.



rights cannot be divorced from economic, social dignity and the care that each human and cultural rights. In other words, economic and social development cannot be achieved without the political freedom to participate in that process, including the freedom to dissent. The nature and characteristics of human rights can be further understood as under:

1. Human Rights are Indispensable and Inevitable

Lack of human rights may hinder the ethical, natural, societal and spiritual development of individuals. Human rights are extremely essential for the development of a conducive environment to augment the physical and moral life of society.

2. Human Rights Support and Advocate the Esteem of Humans

Thus, human rights advocate that every individual should be treated with esteem irrespective of gender, social or economic status. For instance, a law was passed in India in the year 1993, which forbade human beings from transporting human excreta. This law is called '*Employment of Manual Scavengers and Dry Latrines (Prohibition) Act*'.

3. Human Rights are Universal

No one class of people, however privileged they may be, have a monopoly over human rights. They are essentially universal without any doubt. These rights guarantee the basic values required for human existence, such as esteem and equality.

4. Human Rights are Inalienable

'*Inalienable*' means unable to be taken away. When we say human rights are inalienable we are saying that the rights are inherent in us and we cannot give it away or renounce it. For example, if an individual gives, even in writing, telling the police that he should be arrested for a crime that he has committed and be locked up without a trial, it cannot be considered a valid statement. This would be a violation of his/her basic human right to life and personal liberty under Article 21 of Indian constitution. These rights should be the same for every individual irrespective of their caste, creed, religion, sex and nationality. The fact that the last rites of an individual are performed according to the religion he or she followed during their lifetime, clearly indicates that human rights need to be bestowed on an individual even after his/her lifetime.

5. Human Rights are Dynamic

Human rights are ever changing, constantly dependent on the change in the political, economic, social or environmental structures of the State. For example, the right to adequate treatment during illness has been conferred through various schemes of the Government of India. Some of these schemes include free medical treatment in public hospitals and regular and free medical examination and free medical consultation for schools and providing education to the physically challenged.

Read and Reflect

One day Rohit, a ten year old boy was playing in the field. Another twelve year old boy Prakash, was watching him from the balcony. He could not resist and found himself running towards the ground to play. Rohit and his friends refused to play with him because he was a servant in Rohit's house. So Prakash sat in the corner and played by himself. Later, when he returned home, Rohit was immediately given a glass of milk by his mother, whereas Prakash was scolded for not doing the house hold chores on time.

How often have you come across such a scene where a person is deprived of the dignity and the care that each human being has a right to? Such a right, which is basic to a human existence, is a human right.





6. Human Rights are Essential for Gratification of Aspirations

Every human being is entitled to attain his/her aims in life. Human rights refer to those requirements which are absolutely essential to attain this aim. These essential rights should not be curtailed by any authority.

7. Human Rights are Never Absolute

Humanity lives in a society which invariably places some limitations on certain privileges and freedoms. Human rights are those restricted privileges or prerogatives, which are beneficial for the society or humanity at large. These are acknowledged and attested by the state through its legislation. Each of these rights comes with restrictions.

8. Human Rights Restrains State Power

Human rights imply that all citizens have rightful demands upon his or her society for certain freedoms and assistance. Thus we could say that human rights confine the power of the government. They either essentially levy limitations on the power of the government to prevent the violation of the basic human rights of individuals, or they may lead to setting up of certain obligations for the government for non- interference in the personal life of citizens.

This is clearly indicated in the six freedoms mentioned in the Right to Freedom in the Indian Constitution. (Article 19 1.5) .

Read and Respond

- a) *The right to a clean environment has recently become the concern of many countries. Does this concern suggest that human rights are dynamic? Think of some other issues that reflect the dynamic nature of human rights.*
- b) *The main theme of George Orwell's novel the Animal Farm is the corruption of absolute power. It is a story of a group of barnyard animals. These animals revolted against the atrocities of their human masters in an attempt to create a utopian state. Does this story reflect on the fact that human rights limit the state power? Find out more stories where the fight for human rights limited state powers.*

1.4 The Need for a Charter of Human Rights

Human Rights cannot be different for different individuals, states, and countries. Thus, a charter of Human Rights applicable for all and accepted by everyone is needed to:

1. assure equal human rights for all human beings.
2. promote the idea of peaceful co-existence within the country and among various countries of the world.
3. protect and acknowledge rights.
4. encourage the Government to make policies and laws for the fulfillment of human rights.
5. establish a peaceful environment for the development of human life and harmonious existence of all mankind.
6. promote human rights and above all, national or international politics and discretionary government decisions.
7. inculcate the values of respect for human rights, among the victorious nations of wars so as to focus on environmental issues.

Historical Perspective

1.5 Human Rights and its Antecedents

Deliberations on these thoughts can be compared with those of the ancient civilizations of Babylon, China and India. Human Rights influenced the laws of Greek and Roman society and were the



principal features of Buddhism, Christianity, Confucianism, Hinduism, Islam and Judaism. The notion of moral code, equitableness, righteousness and self-respect were also crucial even in those communities who have not left written records, but the thoughts have been handed down for generations through oral histories. Thus, we can say that, human rights are not a recent invention.

The Magna Carta (1215) was a British document that was an agreement stating that the sovereign or king had to consult with the lords or barons of the kingdom in establishing certain public policies. This was very important for the development of a constitutional or limited government, but it was not a legitimate human rights document. The Magna Carta is acknowledged to be the originating document which influenced the drafting of the English Liberties and American Liberties.



Fig. 1.1: Magna Carta (1215)

The first official document of human rights was signed by King John on June 15, 1215. It was called the 'Articles of the Barons'. The barons then renewed the 'Oath of Fealty of King John' at Runnymede on June 19, 1215. Subsequently, the Royal Chancery produced a royal grant, based on the agreements reached at Runnymede which came to be known as Magna Carta. Archbishop Stephen Langton and the authoritarian Barons of England delineated the details of the Magna Carta. Copies of the Magna Carta were distributed to bishops, sheriffs and other important people throughout England.



Fig. 1.2: Magna Carta being prepared by the Barons of England

The three main philosophers - *Thomas Hobbes* (1588-1679), *John Locke* (1632- 1704) and *Jean-Jacques Rousseau* (1712-1778) are credited for creating the Natural Rights Theory. Thomas Hobbes was the first thinker who advocated the philosophy of '*Natural Rights*' for the first time. In his book, '*Leviathan*', he expounded the fact that the right to life is an inalienable right of every individual and that all humans should be considered as equal. The thought of human rights has its roots in what is known as the European Enlightenment Movement that took place in the 18th century in western Europe. Enlightenment thinkers developed the idea of the Right of Man. Of course, an idea alone was not enough to establish human rights in the world. Even after the Enlightenment, in the 19th century, citizens of the United States enslaved Africans and massacred Native Americans.

One of the first and most important of these Enlightenment thinkers was the English philosopher John Locke. Locke was part of the Early Enlightenment. Most of his writings were published in the late 1600s. He was among the first to advocate the view that people have natural rights simply because they are human beings, and that their natural rights should be protected by the government. Locke's most important piece of political philosophy is his '*Second Treatise of Civil Government*'. In his first writing, Locke explicitly refuted the idea that kings ruled according to divine right (from God) and argued that a considerable progression in human rights happened in





the 18th century, during the time of rights in the modern world.

Rousseau is considered to be one of the greatest champions of the Theory of Natural Rights. Rousseau has stated in his famous book *'The Social Contract'*, that, "All men are born free but everywhere they are in chains". Rousseau advocated the fact that liberty, equality and fraternity are the basic natural rights of all individuals. These thoughts of Rousseau were the underlying principles in the formulation of the Rights of Man and of the Citizen in France.

On the other hand, the American philosopher, Paine also advocated the philosophy of natural rights because he considered that these were naturally conferred to man by God. But he did not believe in connecting it with the social contract theory. He believed that these rights ought to be bestowed independently and should in no way be linked with the laws of a nation.

The American Declaration of Independence (1776) were also the inalienable human rights such as right to life, equality and liberty.

The French Declaration of the Rights of Man and Citizen (1789) adopted by France challenged the dominance of the higher section of the society and recognized the 'liberty, equality and fraternity' of every man. These basic rights also found their way in the United States' Bill of Rights (1791), which recognized freedom of speech, religion and the press in its Constitution, as well as the right to peaceful assembly, private property and a fair trial. Furthermore, the **Virginia Declaration of Rights (1776)** declared a number of fundamental rights and freedoms. These were followed by development in philosophy of human rights by Thomas Paine, John Stuart Mill and Hegel during the 18th and 19th centuries. The term human rights probably came into force sometime between the publishing of *'Rights of Man'* by Paine and *'The Liberator'* (1831) by William Lloyd Garrison.

Read and Respond

Cyrus the Great, was the first king of ancient Persia (today's Iran). In 539 B.C, after conquering the city of Babylon, he freed the slaves, gave freedom of religion to his subjects and established racial equality. These and other decrees issued by him were recorded on a baked-clay cylinder. (The language used was the Akkadian and the script, cuneiform).

This decree issued by him is known as the Cyrus Cylinder. It has now been recognized as the world's first charter of human rights. It is translated into all six official languages of the United Nations and its provisions have been incorporated in the first four articles of the Universal Declaration of Human Rights.

Do you think that certain events of history have become the source of human rights in the modern world? Think of some more incidents that have changed the course of the human rights movement.

World Day Against Child Labour - Human Rights and Social Justice

Let's end child labour!

The International Labour Organization (ILO) launched the World Day Against Child Labour in 2002 to focus attention on the global extent of child labour and the action and efforts needed to eliminate it. Each year on 12 June, the World Day brings together governments, employers and workers organizations, civil society, as well as millions of people from around the world to highlight the plight of child labourers and what can be done to help them.

The ILO's adoption of Convention No. 182 in 1999 consolidated the global consensus on child labour elimination. Millions of child labourers have benefitted from the Convention, but much remains to be done. The latest figures estimated that 215 million children are trapped into child labour, and 115 million of these children are into hazardous work. The ILO's member states have set the target for eliminating the Worst Forms of Child Labour by 2016. To achieve this goal requires a major scaling up of effort and commitment.



A future without child labour is at last within reach. Significant progress is being made worldwide in combating child labour. The new global estimates of trends reinforce this message of hope. However, a strong and sustained global movement is needed to provide the extra push towards eliminating the scourge of child labour. This is no time for complacency.

In 2010 the international community adopted a Roadmap for achieving the elimination of the worst forms of child labour by 2016, which stressed that child labour is an impediment to children's rights and a barrier to development.

<http://www.un.org/en/events/childlabourday/>

The two **World Wars** were responsible for the large destruction of life and abuse of human rights. They therefore became underlying cause for the progression of human right laws. The League of Nations which came into being in 1919, during the formulation of the **Treaty of Versailles**, after the first World War, included the reduction of arms and ammunition, planning techniques for preventing war, solving the disagreements between various nations through interactions and negotiations, and working towards the well being of the world.

Some of the rights which were enshrined in the Charter of America and France as mentioned were, afterwards incorporated in the Universal Declaration of Human Rights.



Fig. 1.3: WW II - The Atomic Attack

At the 1945 Yalta Conference, the Allied powers planned to formulate a new organisation in place of League of Nations. This body today is known as the United Nations. Since its formation, the UN has been playing a very significant role in upholding human rights in the international arena.

1.6 The United Nations Human Rights Council

The United Nations Human Rights Council is a body working under the United Nations. It was an organisation under the **UN Economic and Social Council (EcoSoc)**. It was previously known as **United Nations Commission on Human Rights**. In 2006, the nomenclature was changed to Human Rights Council.

The Human Rights Council (UNHRC) provides assistance to fulfill the objectives of the UN EcoSoc. It is the UN's prime instrument and an international council which works towards the progression and safeguard of the rights of individuals.



1.7 The Universal Declaration of Human Rights

The **Universal Declaration of Human Rights (UDHR)** was formulated by the members of the then Human Rights Commission, headed by Eleanor Roosevelt, who was its Chairperson.

The United Nations General Assembly later accepted it in 1948. It was later accepted by majority of the constituent nations (including India) of the United Nations. The UDHR entailed basic human rights to individuals all over the world, so as to usher a new era in the world in which the atrocities committed during the first and second world wars would not recur.





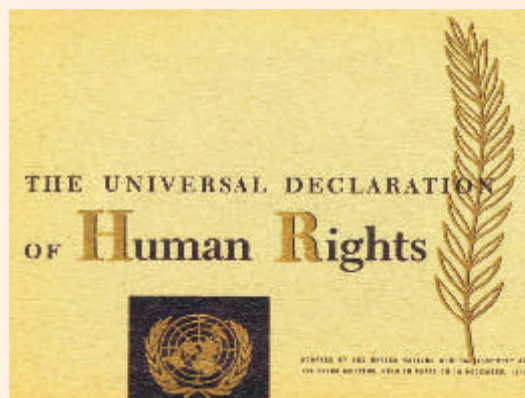
The statement of these rights, at the national level is reflected in respective constitutions of different countries. The UDHR covers two broad sets of rights. One set is known as '*Civil and Political Rights*'. The other set of rights is known as '*Economic, Social and Cultural Rights*'. According to the UDHR, these two sets of rights aim to give all people 'freedom from fear and want'. Both sets of rights must be protected as the '*foundation of freedom, justice and peace in the world*'.

It is the responsibility of the State to protect the human rights proclaimed by the UDHR. Under the heading of civil and political rights, all governments are to protect the life, liberty and security of their citizens. They should guarantee that no one is enslaved and that no one is prone to be captured detained or tortured tyrannically. Every individual should be designated to an impartial trial. The right to freedom of thought, expression, conscience and religion are also to be protected.

Under the heading of economic, cultural and social rights, all governments are expected to progressively improve the living conditions of their citizens and ensure equitable distribution of resources and services. For example, they should ensure the right to food, water, clothing, housing and medical care, the protection of the family and the right to social security, education and employment. They are to promote these rights without discrimination of any kind.

Although UDHR is not legally binding, over the years, its main principles have acquired the status of standards which should be respected by all States. The civil and political rights as well as the economic, social and cultural rights spelt out in the UDHR are included in **Part III**, **Part IV** and **Part IV A** of the Constitution of India, which is the most important law of our nation, in the form of '*Fundamental Rights*', '*Directive Principles of State Policy*' and '*Fundamental Duties*'.

Preamble of UDHR says that '*recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*'.



1.8 International Bill of Human Rights

The charter of Universal Declaration of Human Rights, concedes the basic human rights to all individuals. It indeed is the most valuable document regarding human rights and has, ever since, influenced the basis of many national and international laws for upholding human rights all over the world. Interestingly, the content of the provisions contained in the UDHR elucidating civil and political rights as well as economic, social and cultural rights, took many years to complete. It was on 16th December 1966, the United Nations General Assembly adopted two covenants - the International Covenant on Civil and Political Rights (ICCPR) and the **International Covenant on Economic, Social and Cultural Rights, (ICESCR)**, and an **Optional Protocol to the ICCPR**, allowing for complaints to be made by individuals on violations of their rights embodied in the covenant. In adopting these instruments, the international community not only agreed on the content of each right set forth within the Declaration, but also on

Read and Respond

December 10, is marked as the Human Rights Day by United Nations as on this day in 1948, the General Assembly adopted the Universal Declaration of Human Rights (UDHR).

Does the need to internationalize human rights protection impress you? Think of other ways to do the needful.



measures for their implementation. A further elaboration took place when, in December 1989, the Second Optional Protocol to the ICCPR, aspired to abolish death punishment, was incorporated by the General Assembly. The UDHR, the ICESCR, the ICCPR and its two Optional Protocols constitute the International Bill of Rights.

1.9 Articles under Universal Declaration of Human Rights

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it is independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3: Everyone has the right to life, liberty and security of person.

Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6: Everyone has the right to recognition everywhere as a person before the law.

Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9: No one shall be subjected to arbitrary arrest, detention or exile.

Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and if any criminal charge against him.

Article 11:

1. Everyone charged with a penal offence has the right to be presumed innocent until proven guilty according to law in a public trial where he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which does not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12: No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.



Fig. 1.4: Everyone has the right to be treated equal



**Article 13:**

1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14:

1. Everyone has the right to seek and to enjoy asylum from persecution in other countries.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purpose and principles of the United Nations.

Article 15:

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16:

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights concerning marriage, during marriage and its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17:

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.



Fig. 1.5: Everyone has equal rights in the family

Article 20:

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.



3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22: Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his/her personality.

Article 23:

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24: Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25:

1. Everyone has the right to a standard of living adequate for health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, including those born out of wedlock, shall enjoy the same social protection.

Article 26:

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27:

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

Read and Respond

Recently The UN Educational, Scientific and Cultural Organization (UNESCO) held a high-level event at its Paris headquarters in support of girls' education. It was organized to pay a special tribute to Malala Yousafzai, a 15-year-old girl who was shot by the Taliban in October for her efforts to defend the education of girls in Pakistan. UNESCO and the Government of Pakistan launched the Malala Fund for Girls' Education at the event, with President Zardari announcing that his country would donate \$10 million for the cause.

What other ways were adopted in the UNDHR for combating gender discrimination?





2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28: Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29:

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30: Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

<http://www.un.org/en/documents/udhr/>

1.10 Expansions of Human Rights

It has already been explained that rights keep on changing with the needs of the society. For e.g. with the development of the need of protecting and preserving the natural environment, (which includes forests, rivers and wild life, etc.) the UN General Assembly also adopted the following covenants:

- ☐ Elimination of Discrimination against Women (CEDAW).
- ☐ Convention on the Rights of the Child (CRC).
- ☐ Convention against Torture and Other cruel, Inhuman or Degrading Treatment or Punishment (CAT)

1.11 What is a Human Rights Violation?

It is the basic duty of every government of a nation to uphold the human rights of every citizen lawfully. Those conditions when the government or any of its representatives, (such as bureaucrats, police officers, defence personnel etc.) fail to respect, protect or themselves intrude the rights of an individual, it would be human right violation. Human rights can be requisitioned against the government and not against private individuals. However, if the basic human rights of a citizen are violated by a private individual and the government fails to redress the victimized citizen, then such a condition will be termed as human right violation.



Fig. 1.6: A Protest against Human Rights Violation



Some examples of human rights violations can be:

- ❑ Negligence on the part of the pollution control board for prevention of release of poisonous chemicals by industries into water sources which provide water to the entire city. Such a condition will be termed as infringement of right to life.
- ❑ Physically tormenting of suspicious elements related to crime or convicts by the security officers. Such a condition will be termed as infringement of the right to human dignity and physical security.
- ❑ Refusal of the police officer to register an F.I.R of a woman being harassed by a group of men. Such a condition will be termed as infringement of the right to equal protection of law.
- ❑ Denial by any government official or authority to punish the higher section of the society who are practising untouchability by refusing to allow the social out castes to use the water of the village well or enter the village temple. Such a condition will be termed as infringement of the right against discrimination.
- ❑ Disparity in salary and promotion policy for male and female employees at the same workplace. Such a condition will be termed as infringement of the right to equality of opportunity.
- ❑ Acquisition of the houses of several people, by the P.W.D for constructing a road or a flyover without paying remuneration to the master of the house. Such a condition will be termed as infringement of the right to livelihood.
- ❑ Refusal of the school administration to show the examination papers of the students. Such a condition will be termed as infringement of the right to information.
- ❑ Forcible conversion of the religion of a bride or a bridegroom in order to marry someone from a different religion. Such a condition will be termed as infringement of the right to religious freedom.
- ❑ Failure of the municipality to develop adequate technique for disposing garbage in the city.
- ❑ Confiscation of a local press by the government authority for producing writings condemning the government in power. Such a condition will be termed as infringement of the right to freedom of expression.

Such a condition will be termed as infringement of the right to a clean and healthy environment.

Case Study1: Freedom of thought, conscience and religion (Article 9, ECHR)

In 2004, a 16 year-old girl called Shabina Begum complained to the UK courts about her school's uniform rules. Shabina's lawyer said that her human rights had been breached because the school would not let her wear a jilbab, which she considered necessary to wear because of her religion. The UK Court of Appeal agreed that Shabina's rights had been breached, but then the case went to the House of Lords, which disagreed and said that her rights had not been breached.

Even though Shabina lost her final court case, there was a lot of discussion about school uniforms in the newspapers and on TV. The Government wrote new rules for schools emphasising that students and parents must be asked their views when uniform rules are being made.

<http://www.equalityhumanrights.com/advice-and-guidance/equal-rights-equal-respect/useful-information/human-rights-case-studies/>

Case Study 2: Education is a basic child right

Suman comes from Himmatgarh, a village 40 km North from the District headquarter of Shivpuri District of Madhya Pradesh. Suman is one of those girls who have been facing a barrier in





attending schools due to lack of interest of parents in girl child education and assuming homely responsibilities to be only of the girls. On contacting the school in Himmatgarh, the teacher shared that most of the girls have been attending school, except for Suman, whose parents have been told about the importance of education in the overall development of a girl on a number of occasions. Following the meeting with the children gram sevak visited Suman and asked her, why she was not attending school. Suman said that she did want to attend school, but her parents were of the opinion that school was not about education anymore, but more of an institution for distribution of mid-day meals.

The next step was to appeal to Suman's parents, who were told why girl child education was important not only for the overall development of the girl but also that education contributed to the health, education and poverty reduction of the family. On the completion of the counseling session, Suman's parents shared that though they had earlier wanted Suman to stay home, look after the household chores while they were out for work now they understood the concern and since the organizations, government and schools were themselves making efforts to ensure education for all they would now participate in this global campaign.

Today Suman is in 7th standard and has secured 86% marks in her examination. Suman is one of those who serve as an example for the entire community on how education transforms lives.

Source: <http://sambhavindia.org> posted on date Jul 14, 2011

Have a look at the case studies above. Each case study will help you to ponder over the following questions:

- ☐ Which Human Right has been violated in each of these cases?
- ☐ Which Human Right organization is working for protecting the right that has been violated in the case?
- ☐ Which of the rights that you have identified are inalienable and which are not?
- ☐ Why are human rights of women generally violated throughout the world?
- ☐ Find out in what other ways the rights of women are violated in our society.

1.12 Convention on the rights of the child

The Convention on the Rights of the Child or the CRC is “*the most complete statement of child rights ever made*”.

It is the logical outgrowth of the history of both the international human rights system and expanding concern about children and their empowerment. It includes the ten principles of the 1959 Declaration of the Rights of the Child and elaborates them into 54 articles. Amongst these around 41 are concerned with the rights of children. They try to resolve all the major issues of the lives of children. It is no doubt a document with new ideas in the arena of human rights ideally and practically.

It can do this as it deals with children considering them as individual persons, as rudiments in a socio-political order. The CRC aspires to strike an equilibrium between the rights of children and that of grown ups in charge of them, for their survival, protection and development. This is achieved by according children the right to take part in planning regarding



Fig. 1.7: Rights of Children



them. Therefore it is a complete official paper in which every article is interwoven with the others. Besides this majority of the articles stress on other forms of discrimination affect the elucidation and application of each other. The rights explained in the Convention are dependent on each other; as the articles defined in the convention work in cooperation with each other, as none of the articles can be dealt unilaterally .

It is necessary that all the rights of every child is to be respected for their better implementation. The common thread that runs through the entire Convention is 'the best interests of the child shall be the primary consideration'.

The Convention thus takes a great leap forward by redefining needs as rights. For years, we have seen and heard international organizations, governments, child rights advocates, activists and organizations working together to meet the needs of children for food, shelter, health care and access to education. With the coming of the CRC, failure to meet the basic needs of children is a clear indication that we are violating their rights. The list of 41 operational articles could be viewed at a glance in the box below.

The UNCRC- United Nations Conventions on the Rights of the Child

Article 1 Everyone under 18 years of age has all the rights in this Convention.

Article 2 The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.

Article 3 All organisations concerned with children should work towards what is best for each child.

Article 4 Governments should make these rights available to children.

Article 5 Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

Article 6 All children have the right of life. Governments should ensure that children survive and develop healthily.

Article 7 All children have the right to a legally registered name, the right to a nationality and the right to know and, as far as possible, to be cared for by their parents.

Article 8 Governments should respect children's right to a name, a nationality and family ties.

Article 9 Children should not be separated from their parents unless it is for their own good, for example if a parent is mistreating or neglecting a child. Children whose parents have separated have the right to stay in contact with both parents, unless this might hurt the child.

Article 10 Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or get back together as a family.

Article 11 Governments should take steps to stop children being taken out of their own country illegally.

Article 12 Children have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken into account.

Article 13 Children have the right to get and to share information as long as the information is not damaging to them or to others.

Article 14 Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. Parents should guide their children on these matters.

Article 15 Children have the right to meet together and to join groups and organisations, as long





as this does not stop other people from enjoying their rights.

Article 16 Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

Article 17 Children have the right to reliable information from the mass media. Television, radio and newspapers should provide information that children can understand, and should not promote materials that could harm children.

Article 18 Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

Article 19 Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

Article 20 Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.

Article 21 When children are adopted the first concern must be what is best for them. The same rules should apply whether the children are adopted in the country where they were born or taken to live in another country.

Article 22 Children who come into a country as refugees should have the same rights as children born in that country.

Article 23 Children who have any kind of disability should have special care and support so that they can lead full and independent lives.

Article 24 Children have the right to good quality health care and clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.

Article 25 Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

Article 26 The Government should provide extra money for the children of families in need.

Article 27 Children have a right to a good standard of living to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

Article 28 Children have a right to education. Discipline in schools should respect children's human dignity. Primary education should be free. Developed or wealthy countries should help poorer countries achieve this.

Article 29 Education should develop each child's personality and talent to the fullest. It should encourage children to respect their parents, and their own and other cultures.

Article 30 Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.

Article 31 All children have a right to relax and play, and to join in a wide range of activities.

Article 32 The Government should protect children from work that is dangerous or might harm their health or their education.

Article 33 The Government should provide ways of protecting children from dangerous drugs.

Article 34 The Government should protect children from sexual abuse.

Article 35 The Government should make sure that children are not abducted or sold.

Article 36 Children should be protected from any activities that could harm their development.



Article 37 Children who break the law should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families.

Article 38 Governments should not allow children under 15 to join the army. Children in war zones should receive special protection.

Article 39 Children who have been neglected or abused should receive special help to restore their self respect.

Article 40 Children who are accused of breaking the law should receive legal help. Prison sentences for children should only be pronounced for the most serious offences.

Article 41 If the laws of a particular country protect children better than the Articles of the Convention, then those laws should stay.

Article 42 The Government should make the Convention known to all parents and children.

[www.uncrcletsgetitright.co.uk/documents/UNCRC%20Poster%20\(English\).pdf](http://www.uncrcletsgetitright.co.uk/documents/UNCRC%20Poster%20(English).pdf)

1.13 Human Rights and Duties

Each one of us are bound or obliged to do certain things which arise out of a sense of duty, custom or law. Rights and duties go hand in hand. If one enjoys certain rights, then one automatically realizes that there are some affiliated duties. Rights and duties cannot be present without the other. For example, the right of freedom of speech. Though you as a student have the freedom of speech would you be able to talk in any manner to your teacher. Would you not have to talk respectfully or in the least not be rude when you are talking to your teacher? Though your teacher may welcome your queries, you would have to abide by the rules and ensure there is no slander or libel in your behaviour.

Similarly every citizen has the obligation or duty to regard the constitution of the country as well as the principles and regulations established through it. They are indebted to conserve and shield public property from harm.

1.14 Inter Relationship between Rights and Duties

As explained earlier, 'rights' and 'duties' subsist together. To enhance the attitudes and scruples of society to a certain standard we must delineate rights and duties to be as important as the other. Whereas rights are essential in advancing the human character and responses, duties build on the importance of individuals playing a part in the advancement of societal good. We could say that it is these duties that aim at the visualization of rights which are assured by the laws laid down nationally and internationally.

The same theory applies for states or countries as well. The numerous instances where the state violates its duties by not conserving the rights of



Fig. 1.8: Rights and duties are interlinked





the people has guided the United Nations and other organizations of the world to pay close attention to the duties than on rights, in the present age.

1.15 Concept of Duty

Normally, duty is linked to 'obligation'. The concept of duty arises from the fulfilment of a requirement. Duties arise in several ways, such as moral duties, legal duties, parental duties, societal duties, and civil duties etc. However, from the point of view of law, duties arise from legal norms or requirements. They have to be discharged, the way it is prescribed. Accordingly, the actions constitute as right or wrong based on the discharge of the duty. If one acts contrary to a duty, it constitutes a wrong. (For example, a legal norm tells us not to speak ill of others if it adversely affects their dignity or modesty, then it would constitute a wrong). A duty imposes an obligation to respect the rights of others and the society. Hence, rights and duties are reciprocal. A right is demand and a duty is an expectation.

The Various Types of Duties

Duties may be divided into:

1. Natural and Acquired duties
2. Positive and Negative duties
3. Perfect and Imperfect duties
4. Prima Facie and Duty Proper

(A) Natural and Acquired Duties

Natural duties bind each one of us without any specification by any institution or body. Each one of us discharge these duties voluntarily as one's own. Not to harm others, not to tell lies, not to misuse the freedoms, duty to respect others, not to injure the innocent, not to beat children, to uphold truth and justice, etc. are all natural duties we adhere to.

Acquired duties are those that are performed by a person by virtue of something they have done, or as a particular relationship, which they might have with others. This means, certain duties are legal. If one refuses to do so after consent, it would attract legal consequences. Another type of acquired duties results from special relationships that individuals undertake as groups, often referred to as responsibilities. For example, parents discharging their duties towards their children, doctors to patients, and lawyers to their clients. These duties are assumed by individuals to automatically act in a specific role.

(B) Positive and Negative Duties

Positive duties require us to do well. Negative duties on the other hand impose restrictions on doing bad. Helping the poor may be a positive duty, which does not bear any obligation whereas not to tell lies or not to harm others are negative duties, which imposes an obligation.

(C) Perfect and Imperfect Duties

Though Perfect and Imperfect duties may appear to be similar to positive and negative duties. Perfect duties expect the person to perform the required duty according to the goal that is set at all times without any alteration. Imperfect duties have no rigidity. Imperfect duties are complaints and are never completed in its true spirit. The performance of these duties depends on that circumstances.



(D) Prima Facie and Duty Proper

'Prima Facie' duty is one that we must obey in a universal way before any other thoughts enter the picture. It is our instinct that decides whether it is a prima facie duty or not.

This '*Prima Facie*' is different from '*duty proper*'. '*A duty proper*' or actual duty is an all things considered duty.

It is not obligatory. We cannot say that it is morally reprehensible based on whether it is a prima facie duty. We must consider other aspects as well. For example, keeping a promise is prima facie duty but it may not be a 'duty proper'. Suppose someone promises to steal money from his mother's purse to buy you a gift. Keeping this promise would entail in an universal act. Keeping the promise would still be a prima facie duty but there would be other dominant reasons for abstaining from performing the act.

Human Rights are based on these approaches to duty. To blot out the current social problems and to elevate the honour as well as the values in society, we would have to execute the duties recommended by human rights honestly.

A group of Noble Laureates and scholars petitioned the UN to adopt a Declaration that would feature the duties of mankind. This they envisioned would off-set the constant abuse of human rights by both states as well as individuals. The General Assembly adopted a Declaration on Responsibilities and Duties of Humankind in 1999 and thus provided a legal base for the Declaration.

1. One's Right signifies Another's Duty

Every right that we enjoy has an analogous duty for others. For example my right to life would mean that it is the duty of others that they will not try to bodily harm me. Similarly my right to religion or privacy imposes a duty on others not to interfere with or criticize my religion or invade my privacy except when the law demands.

2. One's Right signifies Recognition of Similar Right for Another

Anything that I consider or want as a right for myself must be recognized as a right or need of others. For example, if I say it is my right to practice any religion of my choice then I should not stop others from practising a religion that they want to in spite of it being alien to me. Alternatively, if I have the right to freedom of speech, it becomes my duty to ensure that I do not hinder this freedom for others.

3. One Must Use Rights for the Advancement of Common Well-Being

We are duty bound to use our rights in a way that brings about societal good. In relation to this we could say that our government is duty bound to punish or take appropriate legal action against those who act in a manner that invade the rights of others. For example, the rights we enjoy gives us the right to practice any profession as well as any trade, business or occupation but this does not include smuggling arms, ammunition or drugs.

As much as the State assures and protects one's rights, it is our duty to uphold the Laws of the State.

The state promotes those conditions by which human society evolves and thrives. It aims at





creating an environment which makes the life of the people secure, peaceful and comfortable. It is thus the duty of an individual to abide by the laws of the land and fulfil their responsibilities conscientiously.

Afore mentioned alliance between rights and duties thus proves beyond doubt that, it is necessary that they are conferred together. An active public life with civic pride is only possible if the affiliation between the two is recognized and maintained.

Do You Know?

1. The difference between natural and acquired duties.
2. How rights and duties are supplementary to each other?

1.16 India's Freedom Struggle, Human Rights and Constituent Assembly

The struggle for Human Rights in India gained momentum during the rule of the Britishers. It was during the British rule that the Indians witnessed grave violation of their rights. One of the biggest examples of such violations is the Rowlatt Act of 1919, which provided extensive powers to the British Government. It allowed British officials to carry out indefinite arrests, detention of individuals and allowed them to perform/ execute warrantless searches and seizures. It also restricted people from public gatherings and censored the media. Therefore, the extensive powers given to the officials resulted in the gross violation of human rights of the masses. Similarly, the Vernacular Press Act (1878), the Indian Councils Act (1892), the Indian Councils Act (1909) etc, also were marked by the violation of basic human rights of individuals.

Later, on due to the rise of the feeling of nationalism amongst the Indians, the struggle for the attainment of human rights began in India. To do so the Indians not only opposed the Britishers by various revolts but also developed and placed certain demands before the Britishers, for the achievement of their basic human rights. One such demand was the Nehru Commission Report of 1928 (with Motilal Nehru as its Chairman). The Nehru Report not only proposed constitutional reforms for India but also demanded a Dominion Status for India and universal suffrage for all, including the religious and ethnic minorities. It also laid emphasis on limiting the power of the Government and proposed to protect the fundamental rights of the people, which were denied most frequently by the colonial administration.

The next development took place in 1931, when the Indian National Congress approved several resolutions for the protection of fundamental civil rights and social rights of the Indians. Minimum wage, abolition of untouchability and the abolition of forced labour were some of the issues adopted in the ensuing resolutions.

A notable development during the period took place on December 1948, when the United Nations General Assembly accepted and implemented the Universal Declaration of Human Rights. Besides this, the United Nations also requested its member nations to recognise the basic human rights in



Fig. 1.9: Freedom of expression is a basic Human Right



the corresponding constitutions of their countries. This development had a significant impact on the Constitution of India because the work of the development of the Constitution of independent India was already in progress during this period.

1.17 Human Rights in the Constitution of India

The work of drafting the Constitution of India was done by the Constituent Assembly. The Constituent Assembly began its work on **December 9, 1946**. After several discussions and debates the Constitution of India was finally adopted on **January 26, 1950**. The framers of the Indian Constitution were greatly influenced by the idea of human rights and most of the human rights incorporated in the Universal Declaration of Human Rights. While the civil and political rights have been incorporated in **Part III** of the Indian Constitution, i.e. (**Fundamental Rights**). The Economic Social and Cultural Rights have been incorporated in **Part IV** of the Constitution i.e (**Directive Principles of States Policy**). The Constitution of India as said above, provides some Fundamental Rights to its citizens. The fundamental human rights ascertained by the Constitution of India, were influenced by many rights that had been endorsed by several countries.

England's Bill of Rights (1689), the **United States Bill of Rights (December 15, 1791)** and the **Declaration of the Rights of Man and Citizen of France (created during the Revolution of 1789)** were the main influences that went into the making of the Fundamental Human Rights of the Constitution of India.

The Fundamental Rights are included in **Part III** of the Constitution. (Articles 12-35). These rights were finalized by a committee of the Constituent Assembly headed by Sardar Vallabhbhai Patel.

*These rights have not been defined in the Constitution but it has been agreed upon that they are essential which is why they are called Fundamental Rights because they are the most essential rights and are above all ordinary laws. Thus unlike ordinary laws they can be altered only through a constitutional amendment.

Contrary to other justifiable rights the Fundamental rights are protected by a constitutional remedy. Thus the Fundamental Rights are not absolute but have been subjected to certain restrictions. (**by way of an application direct to the supreme court under Article 32, Part III.*)

THE CONSTITUTION OF INDIA

PREAMBLE

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

JUSTICE, social, economic and political;

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

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

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

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

1.18 Fundamental Rights in India

The Indian Constitution assures certain Fundamental Rights to all the citizens of India. The Constitution of India gives the greatest priority to these civil liberties. They are guaranteed to be above all other laws of the nation. They encompass many basic individual rights like equality before the law, freedom of speech and expression, freedom of association and peaceful assembly, freedom of religion and the right to constitutional remedies for the protection of civil rights, for instance the *Habeas Corpus*. The Fundamental Rights were incorporated in the Indian constitution with the aim





to eradicate the inequalities and discriminatory social practices of the past. They abolished the practice of untouchability and also forbid differentiation on the basis of gender, religion, race, caste, or place of birth. It also prohibited discrimination between human beings and atrocities like forced labour. They even protected cultural and educational rights of minorities by safeguarding the right to retain their unique culture and discrete languages. The minorities were also given the freedom to set up and execute their own educational institutions.

There are six Fundamental Rights enshrined in the Indian Constitution.

- ❑ Right to Equality
- ❑ Right to Freedom
- ❑ Right against Exploitation
- ❑ Right to Freedom of Religion
- ❑ Cultural and Educational Rights
- ❑ Right to Constitutional Remedies

Right to Property has been deleted from the list of Fundamental Rights by the 44th Constitutional Amendment Act of 1978. Now it is a legal right under Article 300(A)

In 2002, Article 21(A) was incorporated by the 86th constitutional amendment act. Primary education has also been made a Fundamental Right under the Right to Life and Personal Liberty. It says that "the children in the age group of six to fourteen years shall be provided free and compulsory education" by the State.

Fundamental Rights are not absolute but have been subjected to certain restrictions. The Constitution equips the states with the provision of imposing restrictions on these rights at times, for upholding the independence, sovereignty and integrity of India. Nevertheless, the right to life and personal liberty cannot be suspended. Similarly, the six freedoms (Right to freedom) also bear some restrictions. They can be suspended automatically during the state of emergency.

Read and Reflect

Looking at the Constitution of India Human beings are rational beings. They by virtue of being humans possess certain basic and inalienable rights which are known as Human Rights. Since these rights are available to them by virtue of being humans, as such they come into existence at the time of their birth. The Constitution of India as adopted in 1950 provides certain rights to its citizens known as the Fundamental Rights (Part-3, Article 14-35). These rights are similar to those rights which are provided in Universal Declaration of Human Rights and the rights provided in International covenant on civil and political rights and international rights on social, economic and cultural rights."

- Dr. A.P.J Abdul Kalam

1.19 Recognition of international Human Right principles in India

Truly internationally recognized human right doctrines and criteria are highly respected in India. The human right principles have been embodied in the Indian Constitution, which denotes the highest standard of law in our country. The rights embodied in the Universal Declaration of United Nations have also been reflected in the Indian Constitution.

Many of these rights are also incorporated in the Fundamental Rights and the Directive Principles of the State Policy, guaranteed by the Constitution of India. This has been best exemplified in Article 47 of the Directive Principles of the Indian Constitution, which epitomizes Article 25 of the Universal Declaration of United Nations. Article 25 of the Universal Declaration says that 'everyone has the right to a standard of living that is adequate for the health and well being of themselves and their family'. This right has also been encompassed in Article 47 of the Directive Principle of the Constitution of India, which clearly states that it will be the primary duty of the government to raise the standard of public health, nutrition and living standard of the people.



Apart from the inclusion of internationally recognized human rights in the Indian Constitution, a number of laws have been formulated and enforced in the country to protect some human rights. Some of these are the Protection of Civil Rights Act, 1955; Prohibition Act, 1961; Bonded Labour System [Abolition] Act, 1976; Child Labour [Prohibition and Regulation Act], 1986; Prevention of Atrocities Act, 1989 (As amended in 2006), are a few examples that certify India's lust for human rights. Similarly the *Human Rights Protection Act, 1993* affirms the human rights associated with life, equality, liberty and dignity of a person, which have been ascertained by the Indian Constitution and the International Covenants, it also assures their execution by the courts.

Read and Respond

- Draw the tree on a sheet of paper.
- Write on the tree all those human rights that you think all people need, to live in dignity.
- The human rights tree needs roots to grow and flourish. Give the tree roots and label them with the things that make human rights flourish. For example, a healthy economy, the rule of law, or universal education.
- Explain the reasons for the items you have included.



1.20 Protection of Human Rights

Human rights are protected by international law and domestic law. It is very important when State Parties ratify international covenants such as the ICCPR, ICESCR and the CRC, they should ensure formulation of related laws and their implementation to protect the rights of people in their country. State parties should have a government committed to the rights of its people, an independent and fair judiciary and a capable police force. Even in the most advanced democracies, human rights continue to be violated because the law enforcement machinery does not carry out their role responsibly in protecting human rights. This stands true for India also.

In India, despite the fact that we have a very responsible judiciary, army, and police force, the *National Human Rights Commission of India (NHRC)* was hitherto established on 12 October 1993. Its statute is contained in the Protection of Human Rights Act (PHRA), 1993 as amended by the Protection of Human Rights (Amendment) Act, 2006. The NHRC is an embodiment of India's concern for the promotion and protection of human rights. Some of the human rights violations classified by the NHRC are deaths in police and judicial custody, encounter deaths, illegal arrest, custodial violence, atrocities on scheduled castes and scheduled tribes, indignity to women, sexual harassment and exploitation of women, abduction, rape, murder, dowry demand, child labour, child marriage and communal violence. The basic objectives of Human Rights Commissions are to:

- ❑ Plan and arrange workshops on various human right subjects and formulate human rights syllabus.
- ❑ Organise trainings for some of government officials such as those related with defence, judiciary, jails, police etc.
- ❑ Organise trainings for journalists to teach them how to report sensitive issues related to human rights violations, for instance issues such as child abuse.

Read and Reflect

For the purpose of the Protection of Human Rights Act, 1993, 'international covenants' are the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). Annexure I and II are illustrative of the relationship between the Universal Declaration and Fundamental Rights; and the relationship between the Universal Declaration and Directive Principles of State Policy.





- ❑ Urge people to do research on the major sensitive issues related to human rights prevalent in the society, such as gender discrimination, physical abuse, harassment in offices, selective abortion of female foetus, etc.
- ❑ Organise researches on the deficiencies in existing laws and advise the government.
- ❑ to support government make the appropriate changes and sign international agreements on human rights.
- ❑ Work in collaboration with the non governmental organisations for the amelioration of the masses from human right violations.
- ❑ Work towards creating awareness for human rights through media, workshops, publishing posters pamphlets, handbooks newsletters, books etc.

1.21 Gandhian Perspective on Human Rights

Gandhiji has always been an inspiration for various human rights activists around the world. Gandhiji's struggle for human rights was based on humanism and non-violence. The essence of Gandhian humanism lay in considering the entire world as a single family.



"When I despair, I remember that all through history the ways of truth and love have always won. There have been tyrants, and murderers, and for a time they can seem invincible, but in the end they always fall."

- Mahatma Gandhi

Thus his efforts were always

directed towards uniting the entire mankind making the society independent from social discrimination. Gandhiji believed that service to humanity is service to God because they are creations of God. He said- *"man is a creation of God and every individual is equal before God and all have equal rights and dignity, so we should respect the rights of each other"*. He loved the creator hence he would not hate or hurt his creation by any violent means. Therefore Gandhian humanism was based on the love for the entire mankind. As a promoter of human rights, the ideology of Gandhiji was based on the moral principles of *Non-Violence, Satyagraha, Truth, and Sarvodaya*.

1.22 Making of a Great Human Right Activist

It is said that two incidents - one in 1893 in South Africa and the second in 1956 in USA, changed the course of human rights movements of the world. The first incident was related to the expulsion of Gandhiji from the train at Petermaritzburg in South Africa (for defying the law which prohibited the blacks to travel in a first-class compartment) The second incident was related to Mrs. Rosa Parks in Montgomery in Alabama, USA, who denied to evacuate her seat in a public bus. She refused to give up her right to board a public transport even on the pretext of being fined. It has been rightly said that the character of a person, is shaped in the crucible of the various experiences he/she confronts in a lifetime. Thus the making of the greatest human right's activist- Mahatma Gandhi can be credited to the discrimination faced by him in South Africa.

Successive incidents of racial discrimination followed the train incident, which offered Gandhiji a sense of what he could anticipate in South Africa. These incidents exposed the brutality of untouchability, which was pursued by the white rulers in South Africa. Gandhiji encountered the first shock in the court in South Africa, where he was directed to take off his turban. Shortly thereafter when he was transferred to Transvaal in 1893 for work, he defied the South African law by travelling in the first class compartment of the train. When Gandhi, the young barrister, refused to move to the lower class, he was thrown out of the train by the railway official.



His baggage was also thrown out on the platform. Gandhiji felt so humiliated by this incident that he thought of leaving his job and going back to India. But soon he realised that this insult was only a thing of the surface, deep below lay the epidemic of discrimination on the basis of colour. He was determined not only to continue his job but also to eradicate the disease of racial discrimination. After various disgraceful mortifications when Gandhiji reached Transvaal, he was infused with the spirit of awakening the masses.

1.23 Gandhiji and The Right to Equality

The first steps that he took in his long struggle for human rights, was to end the discrimination between blacks and whites in South Africa and gain the Right to Equality. Just as untouchables were relegated to remote quarters of a town or a village in India, similarly, Indians were excluded from the mainstream and were pushed aside to remote locations or ghettos. In the midst of such a situation, due to the negligence of the municipality, plague spread in one of the gold mines in Natal in South Africa. Despite this, the Indians were held responsible for everything and were blamed for being unhygienic and not keeping their houses and surroundings clean. Later, the municipality ordered the expulsion of Indians from the ghettos as they wanted to burn them. It was during this time that Gandhiji for the first time came on the forefront to stand up against this atrocity of the white rulers. Gandhiji took up the matter in the court, fought the legal cases and got the municipality to pay compensations. Thus, he fought for '*untouchables*', whether they were Indians or Blacks, in South Africa.

Gandhiji considered that racial discrimination is contrary to the ethics of love. Outcasting a particular human group in the society is also a form of violence. For spreading the feeling of love in the society, people should reach out to members of other cultural, social and ethnic groups instead of excluding them. His life for twenty one years in South Africa and thirty years in India was dedicated for the cause of the down-trodden and oppressed who had been segregated and ill-treated for several years in the name of the dreaded apartheid. This inspired millions of people all around the world. On his return to India Gandhiji saw that the ancient custom in India had segregated an appreciable section of the community, this section known as the untouchables, were denied the basic human rights and equal opportunities. He professed novel methods to ameliorate them. He believed that what the weak and the suppressed need to be encouraged to stand up and fight against any unjust system. He also stressed on the use of '*soul-force*', which according to him was the most effective weapon of the weak in this noble fight for social justice and equal rights. He said that this weapon is even more powerful than the atom bomb, and it is this weapon that will arm a nation or a person with the requisite courage to fight the forces which deny fellow human beings their right to live in dignity. On gaining the leadership of the Indian freedom movement he got the Congress Working Committee to devote itself to the cause of the Depressed Classes. They decided to be dedicated for giving a better life to the depressed classes and improve their social, mental and moral condition. They would be encouraged to send their children to schools. They would also be provided with the basic facilities from which they were deprived. He believed that the root of all the economic and social disabilities lay in the denial of temple entry for the untouchables. So the temple entry for '*Harijans*' became his main motive of concern. He also coined a new name, '*Harijans*' for the untouchables, meaning - the Children of God.

Read and Respond Telling Stories of Injustice

Discuss the stories of injustice that you have personally experienced in reference to your response and any human right that may have been violated.

Write out the story. Try to capture the exact phrases or words the storyteller uses.





1.24 Gandhiji and The Rights of Women

He tried to improve the status of women through equal rights and empowerment and by creating public awareness. From the very beginning of his political career he worked relentlessly to improve the lot of women socially, politically and economically and restore back their genuine rights and privileges. He believed in the concept of 'Sarvodaya', meaning comprehensive progress of both men and women. As he had utmost faith in the inherent talents and capacities of women, he wanted the society to make full use of their potentialities and not just think them to be fit for homemaking. He held women in high esteem. His view regarding women's rights is evident from the following statement: *"woman is the companion of man gifted with equal mental capacities. She has the right to participate in the minutest details of the activities of man and she has the same right of freedom and liberty as he. She is entitled to a supreme place in her own sphere of activity as man is in his."*



1.25 Gandhiji and Rights v/s Duties

Gandhiji believed that in a democracy obligations take precedence over rights. Gandhiji believed that people have no natural individual rights. He believed that as all human beings are interdependent on each other, rights can only be earned through the performance of duty by every individual. Thus in 1940 he reacted to the list of rights as cabled by H G Wells in the following manner: *"Begin with a charter of duties of man and I promise the rights will follow as spring follows winter"*.

During his fight for human rights, Gandhiji tried to educate the people that rights and duties are two sides of the same coin. To enjoy rights every individual must first perform their duties. If everyone discharges their duties their rights will be protected automatically. That is why Gandhiji warned the people of India in the following manner, just before independence: *"the great evil that is afflicting our society today of everyone claiming to have rights but not duties. If all simply insist on rights and no duties, there will be utter confusion and chaos. If instead of insisting on rights everyone performs his duties, there will immediately be the rule of order established among mankind. I venture to suggest that rights that do not directly from duty well performed are not worth having. They will be usurpations sooner discarded, the better"*.

1.26 Gandhiji and Education

Gandhiji believed that education was the most powerful weapon that would make the people aware of their rights and duties. It would also build their character in such a way that they would not hesitate to fight for their rights. He rightly said-*"A building erected on that foundation will last forever."*

Gandhiji continues to inspire the people who work for human dignity and freedom throughout the world. World civil rights leaders-from Martin Luther King, Jr. to Nelson Mandela-have credited Gandhiji as a source of inspiration in their struggles to achieve equal rights for their people. Many of



the resolutions and activities adopted by the UN related to human rights have been inspired by Mahatma Gandhi. As a tribute to him, the United Nations has declared 2nd October as the *International day of non-violence*.

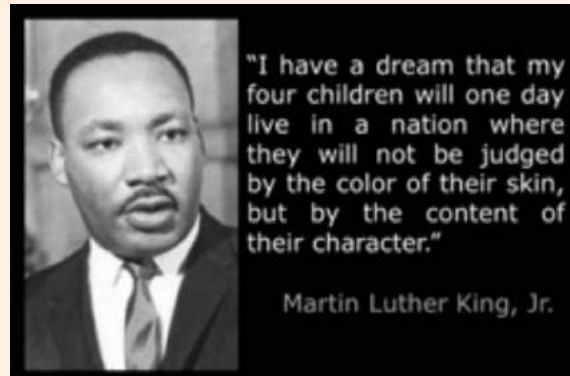
1.27 Martin Luther's Contribution to Human Rights

"The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy."

- Martin Luther King, Jr.

Martin Luther King, Jr.'s advent was at the time when racial discrimination was at its peak. The Blacks were greatly discriminated against in America. Blacks were segregated from the Whites to the extent that they could not reside in the areas of the whites, use the same stores and markets, attend the same schools etc. Oppression was practised throughout America. It was during this time that the winds of change began blowing with the advent of Martin Luther.

He is remembered as one of the greatest advocates of non-violent social change in the 20th century. Born in Atlanta, Georgia, in due time he became very popular due to his exceptional oratory and extraordinary courage.



His courage is clearly evident in the incident of 1955, when he and other civil right activists were arrested when they lead a protest against a transportation company of Alabama. During the protest, they refused to surrender their seats to the whites and move to the rear of the bus, as they were always expected to do.

In the ensuing years, Martin Luther organized many more non-violent protests and mass demonstrations to eradicate racial discrimination and for demanding civil rights for the protection of African Americans.

In 1963 in Birmingham and Alabama, King again organised peaceful mass demonstrations for protection of the basic human rights of African Americans. This demonstration was suppressed by the white police with a stern hand. This incident was criticised in the newspapers all around and also drew the attention of human rights advocates throughout the world. This subsequently led to mass demonstrations in many places. It later culminated in a march that attracted more than 250,000 protestors to Washington, DC, where King addressed the crowd with his famous speech - '*I have a dream*'. By this speech he tried to impart a vision of an undiscriminated society to the world.

He believed that injustice anywhere is a threat to justice everywhere. That is why he not only opposed injustice in America but all over the world. We see this when in 1960 King urged the United Nations to step in to end apartheid in South Africa, after 69 Blacks were killed during a peaceful demonstration.

His vision was enlivened when the Civil Rights Act was ultimately enacted in 1964. In the same year he was honoured with the Nobel Prize for his contribution to Human Rights.

Today King is an icon of the civil rights movement as his life and work symbolize the quest for equality.





Read and Respond

Belonging to a nation, legally, culturally and/or emotionally, offers benefits and requires commitment. Complete the following in the form of paragraphs.

I am..... [Write your nationality].

My nationality offers me.....[using complete sentences and concrete examples, write down anything you feel your nationality gives you. e.g. legal protection, an Id card, free health care, etc.]

My responsibility as a citizen is to.....

Write down all your responsibilities. e.g. respect its laws, speak out if there is something wrong, pay taxes, keep it safe, etc.

Unit End Reflections

Comprehension Questions

1. What are rights?
2. What is meant by human rights?
3. Why are human rights considered to be inalienable?
4. Why is it said that human rights are dynamic?
5. How do human rights facilitate us in our day-to-day lives?
6. Specify the two broad kinds of rights proclaimed in the UDHR?
7. Recall some of the salient features of the UDHR?
8. International Bill of Human Rights is made up of which instruments?
9. "Right and duties are supplementary to each other" Explain.
10. What role did the Magna Carta play in the promotion of human rights?
11. What was the role-played by Thomas Hobbes, John Locke, and Rousseau in the development of the theory of natural rights?
12. How did the American and French revolutions become the source of human rights in the modern world?
13. Write about the contribution of UNs in the promotion and protection of human rights.
14. To what extent is the Constitution of India compatible with the United Nations Declarations of Human Rights?
15. How do the fundamental rights of Indian citizens ensure the promotion of human rights?
16. An advertisement, for a website says that two prospective candidates are rejected in a job interview as they are not listed and connected through a 'job portal' without even being interviewed. How does such as advertisement affect a person's human rights?
17. One would expect human rights to be more evolved in developed countries. Which developing countries have excelled in certain areas of human rights?
18. List as bullet points, 'life with dignity' and 'life without dignity'?
19. Can you think of anyone or a group of people whose rights have been violated and how you can help them?
20. List 5 common violations of human rights due to stereotypes/ prejudices/societal norms. Give reasons.



21. Compare the views of Mahatma Gandhi and Martin Luther Jr. regarding human rights.
22. How is the ideology of Gandhiji regarding human rights relevant in the contemporary world?

Project Work/ Research

1. Take a map of your city/town. Incorporate all important public buildings, (e.g. parks, colleges stadiums) monuments (e.g. Qutub Minar, Red Fort), public services ((e.g. hospitals, police station) and other important places in the society (e.g. grocery stores, multiplexes).
 - a. After completing the map, examine it carefully from the human rights point of view. After this, elaborate on the human rights with which you can link the various places in the map. For instance, a temple or a church with freedom of thought, conscience, and religion; schools and colleges with the right to education; the post office with the right to information etc.
 - b. Also, write down the relevant article and its number in the UDHR, next to that place on the map, along with the identification of the rights.
2. Collect newspaper clippings on the violation of human rights of children, and also mention the provision in Constitution of India for the protection of those rights.







HUMAN RIGHTS

UNIT-2

Essential Rights for Human Development





CHAPTER 2: RIGHT TO EDUCATION

(with special reference to Education of the Girl Child)

Education is extremely essential in today's competitive world. It is the means to development, growth and progress not only of an individual but of the society and nation as a whole. In recent times education has been identified as the most important agent of change.

Every human being has certain rights which are essential for one's personality development and to make her/him a respectable citizen. Education is the principal provision for personal involvement and the right to education is a functional human right. It is only an educated citizen who will be able to comprehend or perceive the other rights that are available to her/him for her/his own development. It is through education that one can comprehend the human rights that are pivotal in strengthening the dignity of human beings. It must be seen as a tool to standardize the opportunities that are provided. This actuality has been acknowledged by our Constitution as well as various international assemblies and platforms. Each individual must be given the chance to access the available education irrespective of their sex, caste, creed or religion and thereby have the opportunity to attain complete human development.



Fig. 2.1: Education is essential for the growth of an individual

Read and Respond

What would your life be like if you had never been to school? Share your thoughts through a poem, essay, oral report, video, or drawing.

2.1 What is Education?

"Education" is a broad term that has several connotations. Conventionally it is identified as the transaction which results in understanding and procuring knowledge. Academic scholarship in a school or college are the most used options, nonetheless self-learning and the so-called '*life experiences*' do also qualify. Education need not be acquired only in the childhood but is carried on throughout our lives and is said to be a continuous process.

2.2 Why is Education Important?

One can very easily see the importance of education in our daily lives. It is through education that one can best use one's innate potential to its best.

Education exposes human beings to various situations and in the process encourages them to think correctly and ethically. It inspires you to work effectively and stimulates you to take the right decisions, at the right time. It is each person's education and how one has imbibed the lessons taught that assists in making each of us separate identities. We could very easily say that it is as important as our basic need for food, clothing and shelter. If you think back to the time when you were enrolled in school you will realize that you not only learnt the '*three R's*' (reading, writing and arithmetic) but also learnt manners and the correct way to interact with friends and teachers.

Being amidst teachers and peers taught you how to react to various scenarios. Education does not



only mean acquiring knowledge of some subjects like computers, mathematics, geography or history but is a much larger term which encompasses reactions, behaviour or even attitude.

Education does not entail just training of the intellect. At best training would promote efficacy but would not promote a holistic development. If the aim is to merely hone acumen, to aspire for a larger pay packet, to be able to perform better than peers, to shine as the best, then our lives would become superficial.

Education should help us to discover high-principled values. It is that tool which transforms perspectives and the individual mind is no longer prejudiced or biased. The mind is receptive to new ideas and concepts and allows one to view any given situation in a positive manner.

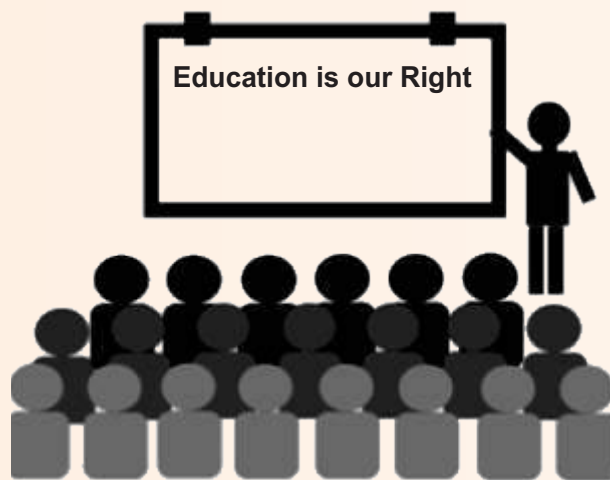
Education is that tool which will develop the understanding of the efficacy of the system and the importance of following the system. Unless each person does not understand the process and believe in its need it will not bring about internal peace and subsequently world peace as well as development of mankind.

Read and Reflect

It is necessary to have good quality education to be successful... Give your opinion.

2.3 Education as a Right

Since the Universal Declaration of Human Rights (UDHR) in 1948, it is a recognized that every person has the right to education. *The right to free and compulsory primary education, without discrimination and of good quality*, has been ratified in all leading human rights conventions. In addition, this right has been expanded to explain what exactly the right to education means and scrutinize the means to achieve this. As a minimum, states must ensure that basic education is available, acceptable and adaptable for all. (4A Scheme). One of the most critical of all the rights is the right of girls to gain education. The understanding that they would develop through education will give them an insight into the availability of other rights and the means to secure rights for themselves.



Cultural Factors: Gender bias, conventional beliefs and accepted norms act as a deterrents to the likelihood of girls' procuring education. The compulsory right to education for girls would engage in rectifying this deep seated malady which has resulted in inequalities and subjugation of females. It is unfortunate that millions of females are condemned to a life without opportunities or a voice. Enhancing their skills through education and apprenticeship would go a long way in helping them to take charge of their lives, participate effectively in society and take decisions in family matters. It has been often felt but not voiced that there appears to be a fear among those in charge, regarding the power that would get displaced in the event of females being given the same opportunities to education as males.

Health Factors: Education provided to females would result in women's understanding the basics of health. Getting exposed to the importance of nourishment, family planning, the right to take decisions regarding their own body, the choices they are entitled to would automatically lead to vigour and vitality. This would, in turn, lead to lower rates of child mortality, improved health





during and after gestation, boosted family health, less chances of malnutrition and consequently economic growth for the family as well as the society.

Economic Factors: Educating females would go a long way in bettering the economic conditions of a family and consequently the community. It is a globally recognized fact that poor economic condition is the main impediment to being able to enjoy human rights and it is most often the females who are affected by it. Gender discrimination and bias result in various rights being denied to females, including the right to education, to getting permission for taking up jobs outside their homes. They thus remain dependent on males and become the unpaid workers within the four walls of their homes. This naturally increases their subjugation to male domination.

Case Study

Supreme Court Judgement on Mohini Jain Case: Right to Education as a Fundamental Right

When Miss Mohini Jain, who was a resident of Meerut (in the State of UP), sought admission in a private medical college located in the State of Karnataka (in 1991), she was asked by the college management to deposit a sum of ₹ 60,000/- as the tuition fee for the first year. She was also asked to show a bank guarantee of the remaining fee. Mohini Jain's father demanded a concession in the fee from the college management as it was beyond his reach. However the management refused to give any form of concession and denied admission to Miss Jain .

At this point Mohini Jain filed a Writ petition (Writ petition (Civil) No. 456 of 1991) under Article 32 (1) of the Constitution of India.

A two member bench consisting Justice Kuldeep Singh and Justice R. M. Sahai gave the judgement of the case on 30 July, 1992 (Citation: 1992 AIR 1858). According to the judgement, Right to Education is an integral part of the right to life, as education is the most essential requirement to ensure rights to food, water, and health. Charging capitation fee violates Article 14 of the Constitution of India. The Court further stated that the capitation fee was simply a price for selling education which provided access to education only to the richer sections of the society. This denied the right to education to a large section of the students with better merit due to inability of paying the capitation fee. The judgment cited that admission to the medical colleges should be by merit and merit alone.

Thus, for the first time in post-independent India, right to education of the Indian citizens came under scrutiny at the premises of the apex court. The Mohini Jain case led to the declaration of the right to education as a Fundamental Right in 1992.

The judgement was criticized by many Indians who gave reasons that the private educational institutions do not come under Article 12 of the Constitution of India as they don't depend on government grants. Therefore later the Supreme Court modified its judgment and limited the right to free and compulsory education up to 14 years of age.

Respond to these questions based on the case study:

1. Is it appropriate to limit the right to education only to primary and basic education?
2. Will the declaration of the right to education at the higher education level, result in collapsing the entire education system in India?

2.4 Initiatives taken by the Government for providing equal opportunities for the education of girls

In 1994, the Government of India passed a Bill for providing education to the girl child. This Bill proposes to provide incentives for parents who educate their daughters. On the other hand, it also

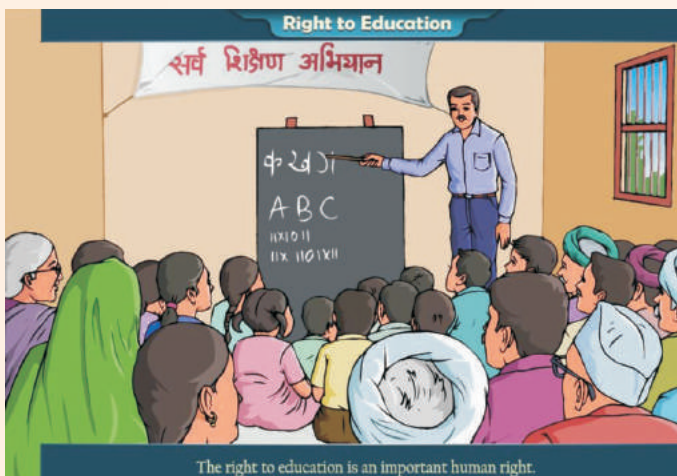


proposes to inflict punishment on parents who deny education to their daughters.

In another important initiative, the Government declared a reduction in fee for the education of girls. The designed with the aim to offer free education at the high school level to all girls who are the single child of their parents.

The *Sarva Shiksha Abhiyan (SSA)* and *Right to Education (RTE)* Act are other tools adopted by the Indian Government which will be beneficial for the education of the girl child.

One of the latest initiatives of the UNICEF and Ministry of Human Resources Development (MHRD) was the drafting of the *National Vision for Girls 'Education in India*. This National Vision provides a road map for enforcing the Right to Education to girls throughout India.



2.5 The Right of Children to Free and Compulsory Education (RTE) Act, 2009

This is an Act to put into effect the Right to Free and Compulsory Education to all children in the age group of six to fourteen years.

The Constitution of India in a Directive Principle contained in Article 45, has made provision for free and compulsory education for all children up to the age of fourteen within ten years of promulgation of the Constitution. For various reasons we have not been able to accomplish this objective in spite of almost 70 years since its enactment. After the National Policy of Education (NPE-19) this mandate did thrust forward and though significant improvement was seen in various educational indicators, but the ultimate goal of providing universal and quality education remained unfulfilled. To give it the deserved importance, it was felt that an elaborate provision should be included in the Part of the Fundamental Rights of the Constitution'. Thus the Constitution Bill, 1997 (Eighty-third Amendment) was introduced in the Parliament and a new Article, namely, Article 21 was inserted. This conferred upon all children in the age group of 6 to 14 years the right to free and compulsory education.



The Parliamentary Standing Committee on Human Resource Development scrutinized the Bill and the Law Commission of India also dealt with the subject in its 165th Report. After taking into consideration the Report of the Law Commission of India and the recommendations of the Standing Committee of the Parliament, the proposed amendments in Part III, Part IV and Part IV (A) of the Constitution were announced as follows:

- a. To provide for free and compulsory education to children in the age group of 6 to 14 years, legislation would be introduced in Parliament after the third Amendment) Bill 2001 is enacted.





- b. To provide in Article 45 of the Constitution that the government shall strive to make provisions for care during initial childhood days and education to children below the age of six years.
- c. To amend Article 51A of the Constitution so as to state that it shall be the obligation of the parents to deliver opportunities of education for their children.

Read and Respond

Put a tick for 'Yes' and a cross for 'No'. Also elaborate in a short sentence your views

1. Does our constitution provide for education as a fundamental right?
2. Does this right imply that this must be provided free?
3. Does this right include free higher education?
4. Is pre-primary education part of this right?

The 93rd Constitutional Amendment Bill was passed by the Lok Sabha, the lower house of Parliament, on 27th November 2001, and then by the Upper House, the Rajya Sabha, on 14th of May 2002. This bill was assented as the 86th Constitutional Amendment Act. The 86th Constitutional Amendment Act provided for free and compulsory education for all children within the age group of six to fourteen years as a Fundamental Right under Article 21A of the Constitution. The above Act also provided, under Article 45 that the State shall endeavour to provide Early Childhood Care and Education for children until they complete 14 years of age. Through the 42nd Amendment to the Constitution, Education, which was till then a State subject, was transferred to the Concurrent list making it the joint responsibility of the Central and the State Governments. According to '*Article 21(A) the State is to provide free and compulsory education to all children of the age of six to fourteen years in such a manner as the State may, by law, determine.*' The above Act further provides under Article 51-A (k) that it shall be a fundamental duty of every citizen of India who is a parent or guardian, to provide opportunities of education to his child/ward between the age of six and fourteen years. Since India was one of the signatories of the UN Convention held in 1989 on the '*Right of the Child*' which recognized the Right to Education, it became mandatory for India to make primary education (i.e., education of children up to the age of 14) compulsory and free.

The Right of Children to Free and Compulsory Education (RTE) Act, 2009 provides for :

- (i) Right of children to free and compulsory education till completion of elementary education in a neighbourhood school.
- (ii) It clarifies that '*compulsory education*' means obligation of the appropriate government to provide free elementary education and ensure compulsory admission, attendance and completion of elementary education to every child in the age group of six to fourteen. 'Free' means that no child shall be liable to pay any kind of fee or charge or expense which may prevent him or her from pursuing and completing elementary education.
- (iii) It makes provisions for a non-admitted child to be admitted to an age appropriate class.
- (iv) It specifies the duties and responsibilities of appropriate Governments, local authority and parents in providing free and compulsory education, and sharing of financial and other responsibilities between the Central and State Governments.
- (v) It lays down the norms and standards relating inter-alia to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school-working days, teacher-working hours.
- (vi) It provides for rational deployment of teachers by ensuring that the specified pupil teacher ratio is maintained for each school, rather than just as an average for the State or District or Block, thus ensuring that there is no urban-rural imbalance in teacher postings. It also provides for prohibition of deployment of teachers for non-educational work, other than decennial census, elections to local authority, state legislatures and parliament, and disaster relief.



- (vii) It provides for appointment of appropriately trained teachers, i.e. teachers with the requisite entry and academic qualifications.
- (viii) It prohibits (a) physical punishment and mental harassment; (b) screening procedures for admission of children; (c) capitation fee; (d) private tuition by teachers and (e) running of schools without recognition.
- (ix) It provides for development of curriculum in consonance with the values enshrined in the Constitution, and which would ensure the all-round development of the child, building on the child's knowledge, potentiality and talent and making the child free of fear, trauma and anxiety through a system of child friendly and child centred learning.

Source: <http://mhrd.gov.in/rte>

According to the data published by the 2011 census, '*India has managed to achieve an effective literacy rate of 74.04 per cent in 2011*'. In the 2001 census the rate stood at 64.8 per cent. According to the report released by the census there are almost 74 per cent literates that constitute the total India aged between seven and above. The most notable fact that came across in the 2011 census was the sharp rise in the literacy of females. During the last decade some of the States and Union Territories like Mizoram, Tripura, Goa, Kerala, Pondicherry, Chandigarh, Lakshadweep, Daman and Diu, National Capital Territory of Andaman and Nicobar Islands have done extremely well for themselves and have registered a literacy rate of almost 85 percent.

Census Year	Persons	Males	Females	Male-Female gap in literacy rate
1	2	3	4	5
1951	18.33	27.16	8.86	18.30
1961	28.3	40.4	15.35	25.05
1971	34.45	45.96	21.97	23.98
1981	43.57	56.38	29.76	26.62
1991	52.21	64.13	39.29	24.84
2001	64.83	75.25	53.67	21.59
2011	74.04	82.14	65.46	16.68

Fig. 2.2: Literacy Rate in India : 1951-2011

Notes:

- Literacy rates for 1951, 1961 and 1971 Censuses relate to population aged five years and above. The rates for the 1981, 1991, 2001 and 2011 Census relate to the population aged seven years and above.
- The 1981 Literacy rates exclude Assam where the 1981 Census could not be conducted. The 1991 Census Literacy rates exclude Jammu & Kashmir.

Rank	Males		Rank	Females	
	India/State/Union Territory	Literacy rate		India/State/Union Territory	Literacy rate
1	Lakshadweep	96.11	1	Kerala	91.98
2	Kerala	96.02	2	Mizoram	89.40
3	Mizoram	93.72	3	Lakshadweep	88.25





4	Goa	92.81	4	Tripura	83.15
5	Tripura	92.18	5	Goa	81.84
6	Puducherry	92.12	6	Andaman & Nicobar Islands	81.84
7	Daman & Diu	91.48	7	Chandigarh	81.38
8	NCT of Delhi	91.03	8	Puducherry	81.22
9	Himachal Pradesh	90.83	9	NCT of Delhi	80.93
10	Chandigarh	90.54	10	Daman & Diu	79.59
11	Andaman & Nicobar Islands	90.11	11	Nagaland	76.69
12	Maharashtra	89.82	12	Himachal Pradesh	76.60
13	Uttarakhand	88.33	13	Sikkim	76.43
14	Sikkim	87.29	14	Maharashtra	75.48
15	Gujarat	87.23	15	Tamil Nadu	73.86
16	Tamil Nadu	86.81	16	Meghalaya	73.78
17	Manipur	86.49	17	Manipur	73.17
18	Dadra & Nagar Haveli	86.46	18	Punjab	71.34
19	Haryana	85.38	19	West Bengal	71.16
20	Nagaland	83.29	20	Gujarat	70.73
21	Karnataka	82.85	21	Uttarakhand	70.70
22	West Bengal	82.67	22	Karnataka	68.13
23	Orissa	82.40	23	Assam	67.27
24	Punjab	81.48	24	Haryana	66.77
25	Chhattisgarh	81.45	25	Dadra & Nagar Haveli	65.93
26	Madhya Pradesh	80.53	26	Orissa	64.36
27	Rajasthan	80.51	27	Chhattisgarh	60.59
28	Uttar Pradesh	79.24	28	Madhya Pradesh	60.02
29	Assam	78.81	29	Andhra Pradesh	59.74
30	Jharkhand	78.45	30	Arunachal Pradesh	59.57
31	Jammu & Kashmir	78.46	31	Uttar Pradesh	59.26
32	Meghalaya	77.17	32	Jammu & Kashmir	58.01
33	Andhra Pradesh	75.56	33	Jharkhand	56.21
34	Arunachal Pradesh	73.69	34	Bihar	53.33
35	Bihar	73.39	35	Rajasthan	52.66

Fig. 2.3: Ranking of States and Union Territories by literacy rate and sex : 2011

2.6 Education of the Girl Child

Swami Vivekananda's appeal exemplifies the plight of the girl child. All over the world inequality in access to education between males and females is severe. Girls are generally denied the opportunity to go to a school, pursue studies and are never encouraged to achieve. Though this malady has been bridged in developed nations, to a large extent developing as well as the underdeveloped countries are still struggling with the problem.

It is education that helps a man or woman to or comprehend the system, be able to claim their rights



and realize their potential in the economic, political as well as civil domains. It is also a sure shot method to alleviate poverty. It is rightly believed that education plays a distinct part in providing an effective base for a girl's progress to adult life. It is an acknowledged fact that by educating a girl, one is assisting in the progress of the entire family that the girl will be affiliated to, in the future. Augmenting learning opportunities for a girl or woman promotes development of such skills that would help them to make well-informed decisions regarding their own as well as their family's health. It is education that will give them an insight into issues like family planning, childhood vaccinations, health insurance, HIV, AIDS, peace, security rights, duties and responsibilities.

Statistics show that schooled females are more inclined to not be oppressed and tend to stand up for their rights. They are more likely to understand the importance of sending their children to school, both boys and girls. It is more conceivable for her, to wish as well as act, towards building a better society. They also become economically independent, thereby earning the right of becoming decision makers.



'I ask you all so earnestly to open girl's schools in every village and try to uplift them. If the conditions of women are raised, then their children will by their noble actions, glorify the name of the country.'

- Swami Vivekananda

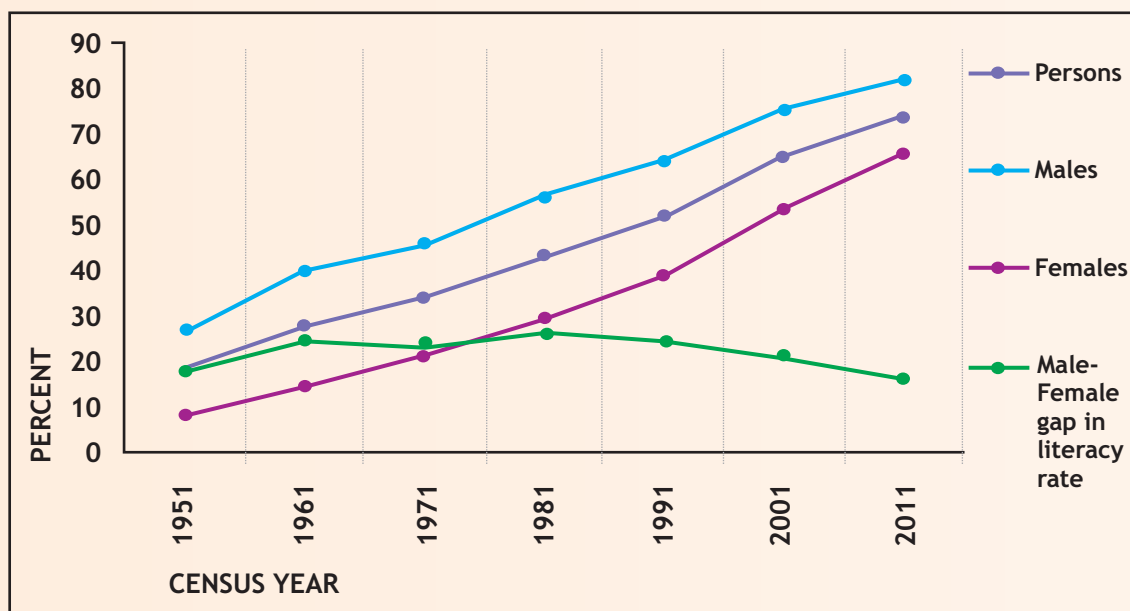


Fig. 2.4: Literacy Rate : 1951-2011

Unit End Reflections

Comprehension Questions

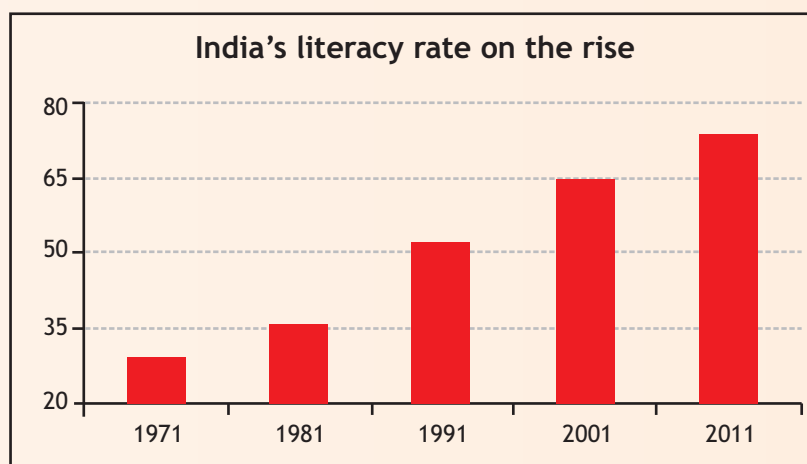
1. What is education?
2. Why do we need education?
3. What role is played by education in the development of an individual?
4. Write a short note on the journey of development of the Right to Education in India.
5. Mention the main causes for low female literacy rate in India.
6. Write about the initiatives taken by the Government of India for the promotion of education of girls.
7. Explain the Right to Education Act. What are its drawbacks?





8. Suggest the steps which can be taken by an individual to motivate a girl child to get educated.

Project Work/Research



1. As per the given graph the literacy rate in India has shown a remarkable growth. Research and identify the factors that have significantly contributed in achieving this.
2. Create a Charter for promoting right to education in schools and for providing quality public education using the following survey tools:
 1. *School catchment area mapping* - Documenting information on each household, including about children in or out of school, information on key categories of discrimination (e.g. caste, gender, ethnic minority, disability, child labour), distances and travel times to school, etc.
 2. *School timelines* - Capturing key developments in the school since 2000 (and possibly further back), e.g. trends in enrolment, teacher numbers and profiles, classrooms, SMCs, etc.
 3. *School transect walks* - Reviewing the infrastructure of the school and making observations on the surrounding area.
 4. *Focus group discussions* - with SMCs and Parent Teacher Associations (PTAs), teachers, children of different grades, discriminated parents and children who have dropped out or are not enrolled.
 5. *Review of school records* - At the time of admission, halfway through the school year and at the end of the term.
 6. *Open public meeting* (advertised in advance) in the school, involving teachers, parents, children, community leaders, local organisations, etc.



CHAPTER 3: RIGHT TO HEALTH

(With special reference to the health of the girl child)

3.1 What is Health?

The word 'Health' has been derived from an old English word 'hale', which means being sound, being whole or being well. Health is the most important, basic and essential asset of human beings because lack of good health would not only have a negative impact on their physical and mental state but would also prevent them from participating wholeheartedly in any activity or fulfilling their responsibilities. Thus health becomes that most important aspect in the life of a human being, for which one is willing to make many kinds of sacrifices and efforts like investing one's time in physical as well as mental exercises in spite of busy schedules, timely and expensive medical checkup etc.

To keep the body in good health is a duty... otherwise we shall not be able to keep our mind strong and clear.

-Mahatma Buddha



Since physical and mental health is vital for living a dignified life, the right to health can be categorized as the basis of all human rights.

Focus on health is not a recent issue, but it can be traced back to 1946, when health was defined in the Preamble of the Constitution of World Health Organization (W.H.O), which actually came into force on 7th April 1948, in which health is defined as- "*a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.*" (Official Records of the World Health Organization, no.2, p.100)

Although this definition has not been amended ever since, the W.H.O further described health in 1986, in the Ottawa Charter for Health as "*a resource for everyday life, not the objective of living. Health is a positive concept emphasizing social and personal resources, as well as physical capacities.*"

The Universal Declaration of Human Rights also mentions health as part of the right to an adequate standard of living, in Article - 25. The International Covenant in its social and cultural Rights, outlined in 1966, adopted the Right to Health as a human right.

Nowadays a large number of human rights organizations are advocating the need for the rights related to good quality of health, for the human race as a whole. Some such organizations are- Human Rights Treaty Monitoring Bodies, W.H.O and the Human Rights Council (formerly known as the Commission on Human Right).

Health initiatives taken by these organizations have helped to clarify the nature, objective and the process of attaining the Right to Health.

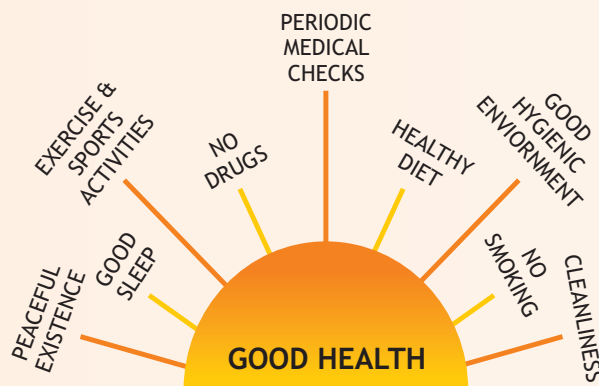


Fig. 3.1: Defining Good Health

3.1.1 Factors influencing Health

Good health is the most critical aspect of life, as it is extremely essential. On this is dependent the social, economic and personal development of an individual. It has been observed that a number of





political, economic, social, cultural, environmental, behavioural and biological factors influence health. Therefore, health promotion organizations strive towards making these conditions favourable, so as to ensure optimum health. W.H.O has outlined a number of factors that influence the health of individuals or communities, which are as follows:

1. The place of residence.
2. The environment.
3. Gender
4. Income
5. Education received
6. Relationship with friends and family.

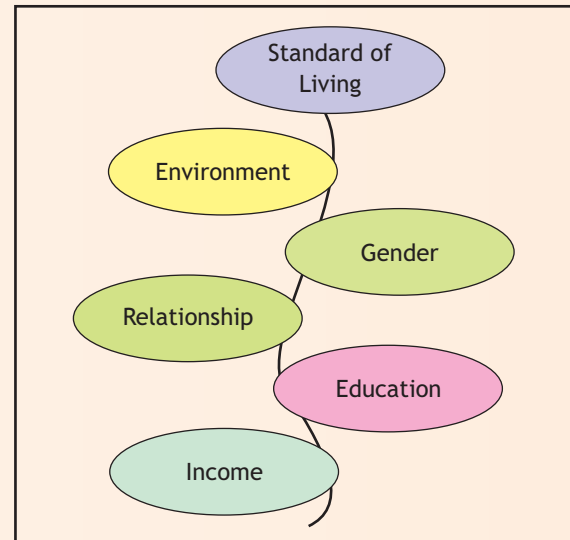
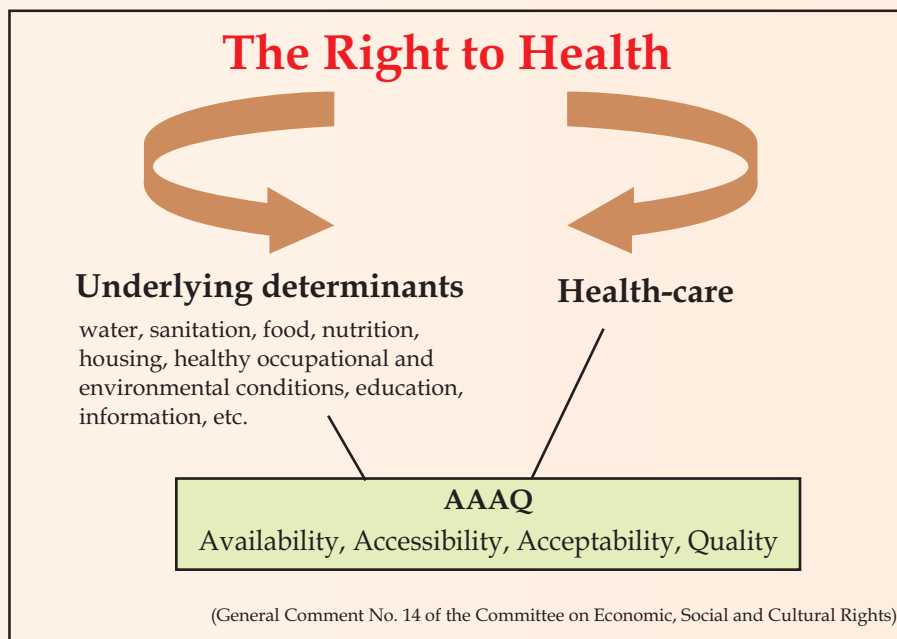


Fig.3.2: Factors Influencing Health

3.2 What is the Right to Health?

Right to Health comprises of economic, social and cultural rights which are required to secure optimum health.



- ❑ **Obtainability:** Providing means of public health care provisions, services, goods, and programmes amply.
- ❑ **Accessibility:** Providing medical facilities to all without physical differentiation and economic differentiation (affordability), and informatory differentiation
- ❑ **Adequacy:** To assure enforcement of dutiful medical ethics which ensures that it is in lieu of culture and perceptive to age and gender
- ❑ **Qualitative Attributes:** It should be ensured that the quality of medical facilities are in accordance with science and are medically appropriate <http://www.ohchr.org>



The Government/State is obliged to ensure the availability of health care and facilities to all. There are three types of State responsibilities:

- ❑ **Esteem:** To ensure non-interference in any individual's accessibility to right to health, e.g. prevent non availability of health-care facilities or sale of unsafe drugs.
- ❑ **Security:** Provide security from third parties from involvement in any one's right to health, e.g. private companies must assure the availability of secure environmental environment for their employees and people residing in their vicinity
- ❑ **Fulfill:** Embrace befitting laws, administrative provisions, financial provisions, judicial, and other means for its advancement to realise completely the right to health. <http://www.ohchr.org>

3.2.1 Constituents of Right to Health

- (i) **The right to health includes the right to be free from forceful medical treatments** such as being used for medical research. It also includes freedom from all kinds of physical and mental punishments or torture.
- (ii) **The right to health is a comprehensive right.** It not only includes access to medical facilities of all kinds but also extends and incorporates all those factors that are essential for a healthy life.

Thus the Covenant of the United Nation General Assembly, adopted the "*underlying determinants of health*" in its resolution (number-2200A (XX1)) on 16th December 1966. This resolution came into force on 1st December 1976. This Covenant outlines the adoption of the following determinants of health:

- ❑ Adequate arrangements for availability of food.
 - ❑ Saving drinking water for adequate availability.
 - ❑ Adequate facilities for nutrition and housing.
 - ❑ Adequate arrangements for sanitation.
 - ❑ Provision for providing information and education to all regarding health.
 - ❑ Providing health facility to all irrespective of gender or class.
- (iii) **The right to health ensures equal access to all kinds of basic health and medical facilities,** access to all information regarding health and participation in all health related decisions to obtain optimum health. It also ensures all medical facilities for the human race as a whole.
 - (iv) **The right to health means that health for all and to all equality facilities and services must be provided to every individual without any differentiation.** Equality and non-discrimination are basic factors essential to be able to enjoy optimum health.
 - (v) **According to the right to health, good quality health facilities and services must be available, accessible and acceptable, ensuring:**
 - ❑ availability of sufficient and quality health facilities and services within a state or locality.
 - ❑ physical and financial access to health facilities for the human race as a whole without any discrimination.
 - ❑ the medical facilities being provided should be culturally and scientifically acceptable.





3.2.2 Prevailing Misconceptions about the Right to Health

(i) The right to health and the right to be healthy are identical

One of the misconceptions regarding right to health is that the State has to provide and guarantee us good health. However it is observed that good health is influenced by factors like social, economic and biological conditions of an individual. Therefore the health of an individual is beyond the control of Governments and States, as they would have to first provide the basic amenities required for healthy living. Thus the right to health to a large degree signifies access to a variety of facilities, services, goods and conditions

Read and Respond

Imagine that you are living in a remote and backward area which lacks a proper infrastructure. The people of this area do not have proper health facilities and services. Water logging, bad drainage and absence of proper sanitation system, unavailability of pure drinking water has deteriorated the environment of that area which has become a threat for the health of the people belonging to that area.

Develop a plan to address these issues, mentioning about the support required from different government agencies and to provide a good hygienic environment in your area for a healthy life.

(ii) The right to health is a long term programme cannot be achieved within a time frame

The fact that the aim to achieve right to health is usually a long term plan does not in any way imply that the State has no immediate obligations towards the right to health. In fact States must make every possible effort within the available resources to realize the right to health without any delay. It is also an immediate duty of the State to guarantee the right to health in a non- discriminatory manner, develop legislations and also plan the course of action for its realization. It is also the duty of the State to ensure access to the essential material components (e.g. essential drugs, materials of child health services etc.) which are required for the execution of the right to health.

Read and Respond

In groups of four create a health plan best suited for your locality. Use the questionnaire give below to brainstorm for ideas within your group:

- Do you believe access to health care is a right or a privilege?
- Which class of people will be covered under your health plan?
- Is your plan easily accessible to all at all times (meaning that everyone eligible will have access to basic services within a certain area)
- What does your plan include about preventive services?
- What does your plan include about basic health services?
- What does your plan state about the services that the people would be expected to pay from their own pocket?
 - What does your plan state about the promotion of healthy behaviour?
 - What does your plan state about discouraging unhealthy behaviour?
 - By what means will your plan be financed?

(iii) The right to health is possible only when the state has enough economic resources

To provide for right to health, the availability of the economic resources of the State are of great importance but the State cannot wait for the economic conditions to ease, to take



action. Instead it must strive its best to provide the best health facilities within the resources that are available.

3.3 Relationship between Health and Human Rights

There are three ways in which health and human rights affect each other:

(i) Impact on health due to human rights violation

Human rights violations have a negative impact on health. On one side there is a direct impact on the health of the survivors, which is directly visible in the form of deterioration of their physical capacity and on the other side there is also an indirect impact on the minds of the survivors, which may not be visible. For example - physical abuses such as torture, assault etc. leave scars on both the body and the mind of the survivor. Similarly, the consequences of other human rights abuses may be less visible at the first glance, but are equally damaging in terms of both physical and mental health. Likewise human rights violations which marginalize and exclude groups of people such as women, children, or minorities, also have a disastrous impact on the health of individuals as they prevent access to vital treatment and care. Marginalization and segregation may also lead to spread of diseases due to lack of access to information about prevention of certain diseases. For example - lack of information about contraception and blood transfusion may lead to spread of HIV/AIDS.

(ii) Impact of health policies and programs on human rights

- a. Public health policies and programmes are created with the aim of improving the health of the people. They therefore help in providing right to health. However they may sometimes have a negative impact on human rights, when states and organisations give priority to unimportant issues and fail to address important health issues. They may also play a negative part when the states and organizations on purpose do not address a health issue concerned with marginalized and minority groups like women.
- b. States and organizations may fail to uphold the right to privacy thereby losing the trust of patients. As a result people do not use the available treatment.
- c. States and organizations are also allowed to impose restrictions as well as suspend rights in the interest of other people or in case of the spread of an epidemic.

(iii) Impact of human rights promotion on health

Protection and fulfillment of human rights like freedom from discrimination, right to health, food and nutrition, right to education and housing, lead to improvement in the health of inhabitants. On the other hand when certain communities lack human rights, it may lead to a low socio-economic status, which has a negative impact on health. For example - marginalized and minority groups due to lack of human rights, have a lower socio-economic status, which results in poor health conditions.

Read and Respond

On October 2, 2008 Government of India banned smoking in all public places, such as bars, restaurants, beaches, parks etc. The ban intended to protect the health of the people from the devastating impact of smoking. The owners of tobacco companies and restaurants objected and said that the government was interfering unnecessarily

Express your views on:

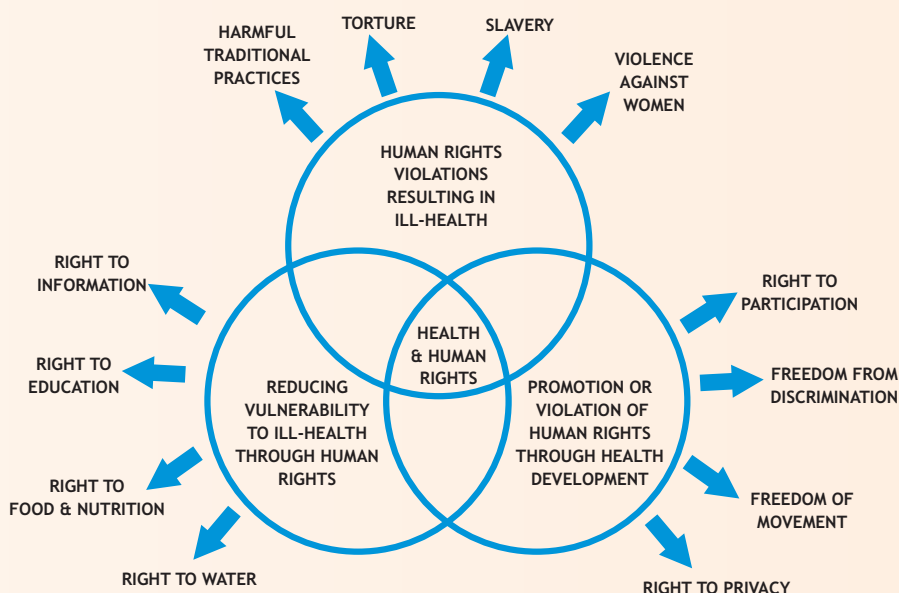
1. Government has taken an appropriate step towards good health by banning smoking.
2. It was unnecessary to ban smoking in public places.





3.3.1 Relationship between the Right to Health and other Human Rights

The World Conference on Human Rights was held by the United Nations in Vienna, Austria, on 14 to 25 June 1993. It was the first human rights conference held since the end of the Cold War (1991). The main outcome of the conference was the 'Vienna Declaration and Programme of Action'. According to the Vienna Declaration (1993) Human Rights are interdependent, indivisible and interrelated. This means that violation the right to health may often impair the enjoyment of other human rights, such as the right to education or work and vice versa. The importance given to the "underlying determinants of health", that is the factors and conditions which protect and promote the right to health beyond health services, goods, and facilities, shows that the right to health is dependent on and contributes to, and the realization of many other human rights. These include the rights to food, to water, to an adequate standard of living, to adequate housing, to freedom exploitation and discrimination, to participation, to privacy, to access to information and the right to benefit from a scientific progress and its applications.



Ill health is associated with the ingestion of an contact with unsafe water, lack of clean water (linked to inadequate hygiene), lack of sanitation, and poor management of water resource and system including in agriculture. Most diarrhoeal disease in the world in attributable to unsafe water, sanitation and hygiene. - WHO

Fig. 3.3: Linkages between Health and Human Rights

As we know that poverty is mother of all evils, the promotion of the rights is also affected by poverty. For people living in poverty, health may be the only asset by which they can enjoy other economic and social rights, such as the right to education or the right to work. Physical and mental health enable children to learn and adults to work effectively whereas ill health is a liability to the individuals themselves and to those who must care for them. Individuals' right to health cannot be realized without realizing their other rights, such as the rights to education, work, food and housing, and the principle of non-discrimination.

3.4 The Right to Health under International and Human Rights Law

Health and human rights are interrelated. This fact has also been recognised by all International human right organizations. Right to health has long been a topic of debate in International circles over the last decade. This has led to a considerable development in health care conditions. In the recent years, International laws have been developed not only on health care but also on a broader concept of health, such as determinants of diseases etc. It has been accepted internationally that health is not only affected by biological factors only but is also determined by an individual's status in the society. Besides this, there were also disparities in the health related laws and health



facilities amongst the various nations of the world. These factors developed the need of making common laws on health and the recognition of right to health.

The first step in the direction was taken in 1948, in the Universal Declaration of Human Rights. This Declaration concerning health is included in Article -25 of UDHR. It does not outline the components of right to health but focuses more on medical care. During the cold war twin covenants were promulgated on human rights, which also included the right to health. The right to health comprise in the International Covenant on Economic, Social and Cultural rights (ICESCR). Article 12 of ICESCR explains the provisions to be adopted by the various states for the realization of optimum health in their area of influence. It further explains several health issues like reduction of birth rate, infant mortality rate, child health care, environmental awareness, controlling industrial pollution, prevention, treatment and control of epidemics, medical facilities etc. The provision of medical facilities in the event of sickness was further elaborated in Article-12(2).

UN Declaration -Article 25

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Read and Respond

"Mental illness, in its broadest sense, is one of the commonest afflictions affecting the human race. The World Bank report on health and development (1993), though criticised for the unreliability of some of its data, identified 'neuropsychiatric' disease as the second-most important non-communicable cause of disability in the developing world. Of these diseases, depression was the single most important diagnosis. The report emphasises an aspect of health which is intimately related to a community's overall health status and development and which has been ignored by development agencies and health ministries faced with the pressing claims of communicable diseases. However, it is impossible to separate the mental and spiritual components of health from physical illness, in particular when dealing with chronic illness and maternal and child health problems. It is likely, and desirable, that future health-related development work will, and should, include mental health among its priorities."

Discuss in pairs on why is it important to focus of provisions for mental health and not just physical health?

The World Health Organization Constitution also stresses on the role of the states for the realization of "highest attainable standard of health". It is obvious that the role of governments is most significant for the attainment of optimum health. However there are factors that are beyond the control of the States. Furthermore the attainment of optimum health will necessarily evolve over time with the help of medical inventions and demographic, epidemiological and economic developments.

In the last decade there has been an upsurge of international and regional treaties for the realisation of the right to health. The highlight of these treaties is their consensus defining the norms of right to health. This is clearly visible in their common views regarding the extension of right to health beyond the sphere of health care. Most of them also include the basic preconditions for health in these norms, such as adequate provision of drinking water, sanitation and nutrition.

In the course of attainment of optimum health through the various norms developed in the world, there have been moments of triumphs, such as the eradication of small pox, the introduction of vaccines and development of antibiotics. But inspite of these major achievements, the world is still facing some of the greatest challenges for the realization of optimum health. The major challenge being faced by the world in the field of health is due to globalization. One of the greatest drawback of Globalization is the spread of contagious diseases to the various parts of the world such as HIV.





A woman is known to be the central figure in a household who keeps the well being of her entire family in mind before taking decisions related to their life. Being healthy and being educated are the two most important factors which would help her to perform her duties effectively. This would eventually mean the well being of the human society as a family is the basic unit of the society.

3.5 The health of the girl child

"Short changing girls is not only a matter of gender discrimination; it is bad economics and bad social policy experience has shown, over and over again, that investments in girls education translate directly and quickly into better nutrition for the family, better health care, declivity fertility, poverty reduction and better overall economic performance"

- Millennium Report (UNs)

Main Facts

- World wide, more than 130 million primary school age children are not enrolled in school, nearly 60% are girls.
- In sub-Saharan Africa , a women faces a 01 in 13 chance of dying in child birth in risk is o1 in 3200.
- An estimated 450 million adult women in developing countries are stunted, a direct result of malnutrition in early life.

Source: <http://www.un.org>

3.5.1 Global Scenario of the Health of Women

These facts relate to the predicament of females in the under developed, developing and in certain factions of developed countries. The stark reality of the situation is that even today females bear the brunt of inequalities in every sphere of life.

All over the world, females face injustice and inequity. For some reason their male counterparts are considered to be more useful and productive. It is thereby felt that the males deserve better and larger quantity of nourishment, given preference to be educated. Long working hours at a very young age is seen in female children more than the males in the unorganized sector. The maladies that strike the girls in nations that consider females to be less valuable than males are many, e.g.

- ☐ Their birth into this world is denied.
- ☐ They are denied the right to name and nationality.
- ☐ They are forced to be married off at an early age without being given a choice of choosing their own groom.
- ☐ If not married off early, they are forced to look after the home and household chores.
- ☐ They are not allowed to go to school or show interest in education.
- ☐ They are not given the freedom to make friends, enjoy leisure time or form playgroups.
- ☐ They are not given the liberty to voice their likes or dislikes, liberty to choose the life they would like to lead or the place they would like to live.

Their lives are liable to further risks due to abject poverty, war, conflict situations wherein they are easy targets of abuse, working under extremely cruel conditions thus, they require added assurance as well as backing from the community as a whole. This would in turn ensure that the rights of the females are recognized and preserved.



Read and Reflect

'Babu Bahini Manch'- An initiative

Fourteen-year-old Rajni Bharti, a resident of a remote village in Uttar Pradesh, has just returned from a five-day visit to Germany where she represented India at an international youth conference on Gender and Development.

Teeming with confidence, the teenager is deftly fielding questions from the national media about the visit during a press conference.

But, a few years ago an overseas trip for her would have been impossible to even imagine. Even stepping off the premises of her two-room house or going to school was unthinkable.

A victim of gender discrimination, she and her three sisters were confined to the four walls of their home in one of Uttar Pradesh's most backward districts - Maharajgunj - with not much contact with the outside world.

They were denied education and treated as second class citizens in their own home.

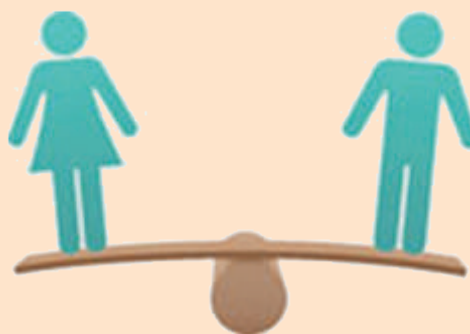
But all that changed once Rajni and other boys and girls of their village became a part of the 'Babu Bahini Manch'- a children's club - which sensitised children about gender equality.

The Manch, created and supported by Gram Niyojan Kendra and assisted by Plan India, also trained them about role reversal among boys and girls. The children have now taken it upon themselves to eliminate gender discrimination from society.

Rajni and Mohammad Javed (15) her peer from the 'manch' were selected as Indian ambassadors to the conference and share their experiences. "We shared our experiences and also got to know about other similar projects where children are involved in other parts of the world," said Rajni who met representatives from several countries, including Egypt, Burkina Faso, Colombia, Paraguay, Norway and the UK at the Berlin Conference.

Javed and Rajni used drama, rallies and other advocacy tools to create awareness on gender equality. "We have been able to bring some changes in the community. Girls never used to come out of their homes but now they rub shoulders with boys," said a proud Rajni.

"We never used to play cricket, now girl's cricket is popular in our area. More girls are pursuing higher studies than a few years ago and child marriages have also come down to some extent," she added. The conference also discussed several issues including child rights, gender discrimination, illiteracy, poverty, health, child marriage and dowry.



3.5.2 Health Status of Women in India

We as Indians are proud to be a part of the largest political democracy in the world. Our Constitution has guaranteed us many privileges like freedom of expression and association, universal adult franchise, a legislative, executive and judiciary that are quite stable, etc. Our Constitution is based on the finest principles like equality, social justice, liberty, fraternity and human dignity. It also guarantees the basic human rights to all the citizens. We have made great advancements and our economy had been able to attain a growth level of 8-9% GDP. Thus we are becoming self-reliant and independent in practically all spheres and have many achievements to be proud of. Yet, at the same time we are also witnessing a large number of inequalities. On one hand some Indians have many privileges in the social and economic spheres, whereas on the other hand multitudes of





Indians live in fear and anxiety due to lack of such privileges. The weakest among these marginalized groups are children, especially girls. A true democracy has the ability to reach out to the weakest and strives hard for their well-being. An enlightened democracy also ensures the well being of their future, which in the case of India would be by respecting the rights of children especially girls and providing them every possible means of blossoming.

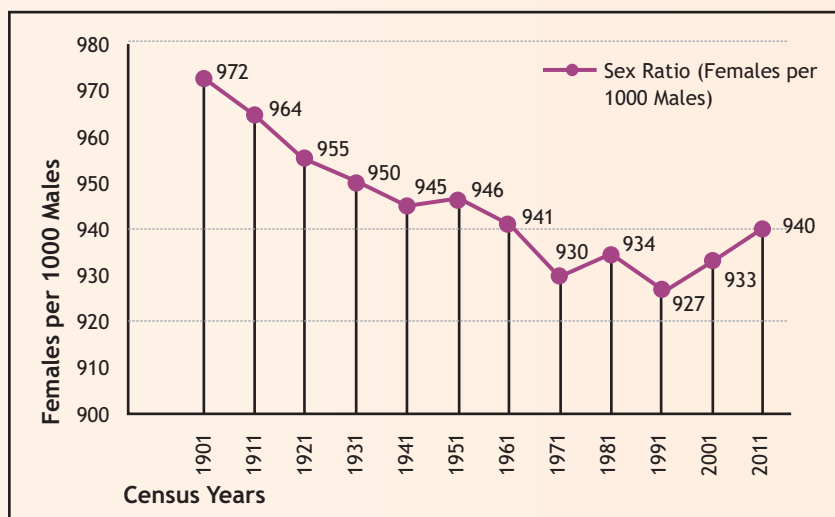


Fig. 3.4: Sex Ratio in India : 1901-2011

3.5.3 Malnutrition and the Girl Child

A recent report of the NFHS specifies the infant mortality rate of children up to one year of age as 57, in 1000 children. It further says that 46% of the children under the age of three are underweight and 80% of the children between the age group of 6-35 months are anaemic. While talking about children it is realised that the condition of girls is even worse. In the case of a girl child there is no certainty that she will survive as a foetus and will be given the right to life. Even if she survives, there would no surety that she would be nurtured in a favourable environment with adequate nutrition and care.

Statistics reveal that about 300,000 girls go "missing" in India each year. Majority of this is due to female infanticide. There are no effective policies for protecting the rights of infants and children. Several cases of parents abandoning the girl child have come to light in the recent years. Thus one of the greatest challenges of the moment is to recognise the rights of children, especially girls. At the same time the governments should genuinely invest in various schemes that would ameliorate the girl child. Human right institutions and organisations should work to pressurize the government to grant privileges for children. They should also educate the masses to create a positive and caring atmosphere where children would be nurtured. Strong voices in favour of this from all spheres of the society will certainly help in eradicating this problem from the root.

Thus it is extremely essential to organise a sustained campaign that would work for the betterment of girls and women. It is necessary to work at all levels of the government, especially at basic levels, like the Panchayats and Municipal Corporations. NGOs and youth groups can also help by monitoring child marriages as well as assure that action is taken in the reported cases, to rescue the girls. They should also try to reconstruct the lives of the victims by restoring back their childhood and by encouraging them to get educated. It is important to formulate robust institutional framework to facilitate such processes.



3.5.4 What Needs to be Done?

The first step in this direction is to accept the fact that not much has been done to improve the condition of children especially the girl child in India. The absence of social norms for upholding the rights of the girls is the root cause for the violation of the rights of the girls in India. It is a shame for a country like India, which is one of the biggest democracies in the world, to be the centre of practices like female foeticide and infanticide. A cultured nation like India should not tolerate perpetration of violence of this kind. The government must assure the safety of these unborn and newly born children through various laws and provisions.

Besides these there are many other problems that females face. One such issue is the child labour, against which many campaigns have been organised. It is sad but even in these campaigns the issue of girls was left out. Girls should not only be freed from child labour in industries but also from working as domestic servants. The government should therefore ensure that girls are rescued from malpractices like child labour, child trafficking, child marriage or any other practices that keeps them out of school at such a tender age. There should be various campaigns to make the people realise that by means of these malpractices they would be violating the Indian Constitution and its provision for the right to education. Besides this the government must also provide sufficient schools, colleges, vocational courses, short-term courses, scholarships, economic schemes and various other facilities to encourage the education of the girl child. Off late one has heard of several cases where girls have taken extremely bold steps to defy the norms of their family and society to escape malpractices like child labour and child marriage, so as to get educated. It is the duty of the government to support and encourage such girls because in their success lies the future of girls in our country.

USAID, Kiawah Trust, and Dasra Launch New Maternal and Child Health Alliance

Thursday, March 7, 2013, Mumbai, India - The U.S. Agency for International Development (USAID), the Kiawah Trust of U.K., and Dasra, India's leading strategic philanthropy foundation, launched a new \$14 million partnership to address the healthcare needs of adolescent girls, mothers, newborns, and children in India. The announcement was made at the Dasra Philanthropy Week 2013 in Mumbai.

Indian women and children continue to face major health challenges. Approximately 67,000 mothers die each year from complications during pregnancy and childbirth. Almost half of children under the age of five suffer from chronic malnutrition, with about 70 percent of these children suffering from anemia. The alliance will engage multiple stakeholders to better foster innovation that addresses maternal and child mortality.

-USAID Press Office

Unit End Reflections

Comprehension Questions

1. What is health? Illustrate the factors which influence health.
2. Describe the Right to Health?
3. Discuss the relationship between health and human rights.
4. How does human rights violation affect the health of an individual and community?
5. What do you understand by Vienna Declaration?
6. Explain the role of international laws and human right laws for ensuring the right to health.
7. What is ICESCR?





8. What are the main principles of the rights of girls according to Convention on the rights of the Child (CSR)?
9. Write a short note on the health status of women in India.
10. Discuss the effect of health services on sex-ratio. Illustrate your points through a comparison between the states of Haryana and Kerala.

Discussion Activity

Read the following quote from the World Health Organization, *"Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."* It means that individuals need more than just doctors and hospitals to be healthy. Write the word "health" on the green board. In small groups, write down on post-its/2x2 inch paper slips, all the factors you believe are related to health. Discuss within the group the questions such as, "what conditions in one's life can impact health?" and "how might your health be different if you were born somewhere else or under different circumstances?" brainstorm to come up with some ideas. Once you have finished, post your ideas around the word "health" on the board. Discuss how just like your ideas, the right to health also encompasses those factors that have an impact on health which includes such issues as income, jobs, education, housing, and racism. These are known as "social determinants of health."

Project Work

In groups, students will take-up a global health problem to research. Along with the project report each group will also create posters and/or public service announcements to present to the class and post around the school or community. Some topics are given below:

- ☐ Access to health care for women
- ☐ Infectious diseases
- ☐ Water, sanitation and hygiene
- ☐ Issues related to mental health and well being
- ☐ Substance abuse, with special reference to adolescents
- ☐ Hunger and where and how it most affects people, including children





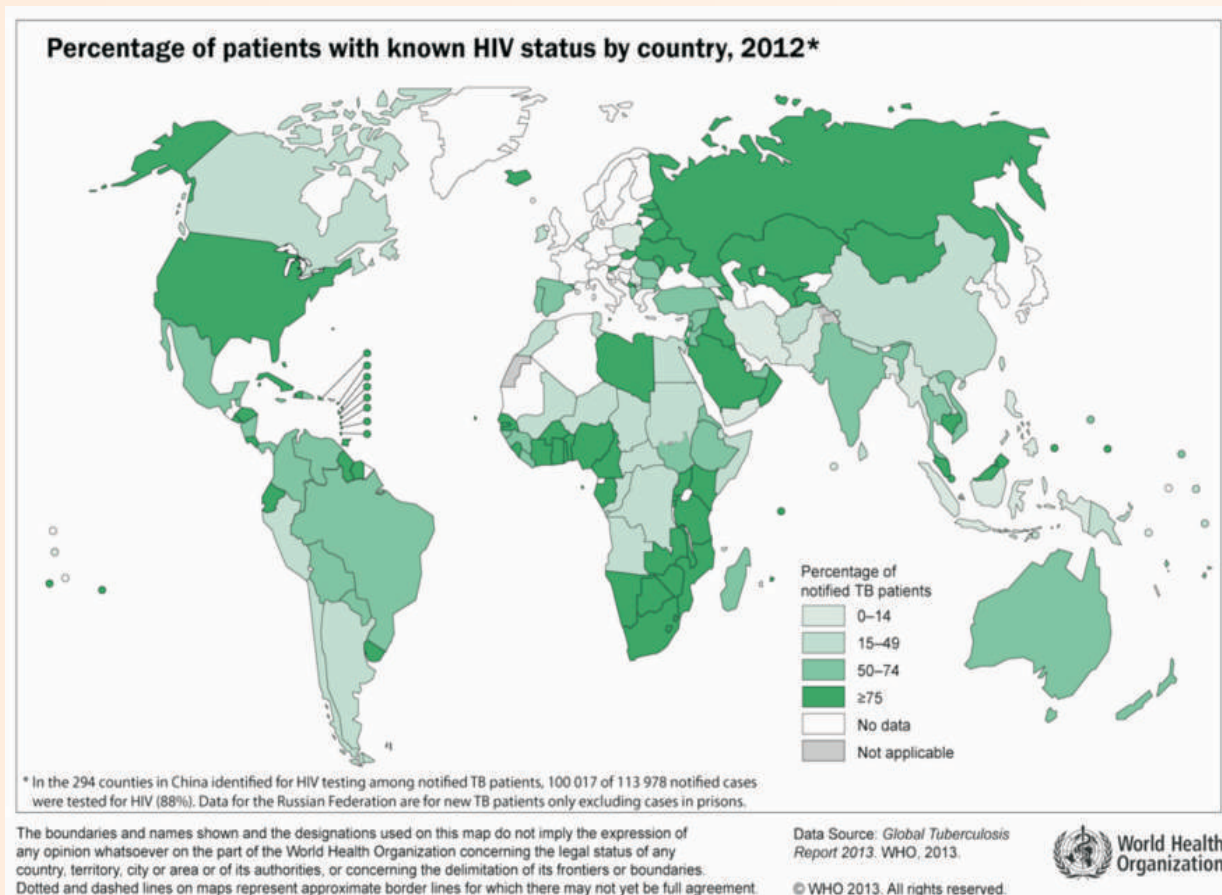
CHAPTER 4: HUMAN RIGHTS AND HIV /AIDS

In past three decades, since the first clinical evidence of **Acquired Immuno Deficiency Syndrome** came into light, AIDS turned out to be the most detrimental disease for the mankind claiming more than 25 million lives. In 2012, approximately 35.3 million people were suffering from HIV/AIDS all over the world. This leads to approximate 2 million deaths due to AIDS and around 2.5 million new HIV infections every year.

As we have studied in previous chapters Human Rights are recognized and protected internationally by instruments such as the Universal Declaration of Human Rights (1948) and the twin United Nation covenants. The human rights outlined in these documents have been ratified and recognized by majority of the governments of the nations.



AIDS awareness aids in prevention



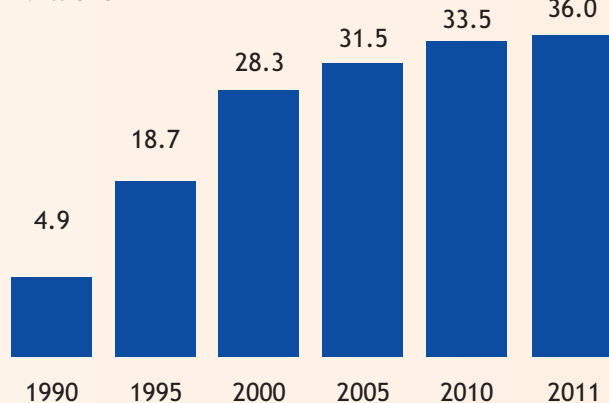
The last decades have also witnessed an increase in the development of international laws for eradication of discrimination based on race, gender, ethnicity and religion. But these international laws have failed to identify other kinds of discriminations which arise due to fear and lack of awareness such as discrimination against people living with HIV/AIDS. The main reason for this is the prevalence of age-old prejudices in our societies.





Global Estimates of People Living with HIV/AIDS 1990-2011

in Millions



Human right violations in HIV/AIDS patients are extensive and widespread. The most prevalent in all societies and cultures are isolation and discrimination. These disparities not only lead to deterioration of health and physical capacity of HIV/AIDS patients, but are also accompanied by serious psychological impacts. Most of the times people suffering from HIV, lose their jobs, families and suffer on ground of basic human rights. They are relegated from the mainstream to secluded lines and are deprived of a caring environment and a safe future. Thus it is observed that majority of the problems in cases with HIV/AIDS, is on account of loneliness due to abandonment.

Read and Reflect

The rate of new HIV infections has fallen in several countries, although globally their favourable trends are at least partially offset by increases in new infections in other countries. In many parts of the developing world, the majority of new infections occur in young adults, with especially young women being vulnerable. Young people aged 15-24 years account for 45% of all new infections. Many of them do not know they carry the virus. Many millions more are vulnerable to HIV as they know nothing or too little about the virus or are otherwise unable to protect themselves against it.

Source: Global Report-on the AIDS Epidemic UNAIDS

Read and Reflect

"Realization of Human Rights and Fundamental freedom for all is essential to reduce vulnerability to HIV/AIDs. Respect for the rights of people living with HIV/AIDS drives an effective response".

[Declaration of commitment, adopted at the United Nation General Assembly Special Session as HIV/AIDS June 2001.]

<http://www.un.org/ga/aids/coverage/FinalDeclarationHIVAIDS.html>

Read and Reflect

"The attainment of a just and human society requires that all individuals and organizations respect human rights and dignity and observe there principles of humanity which reflect universal human values shared by religions and cultures throughout the world.

Respect for the right to life and to the highest attainable standard of health and for the principle of non-discrimination requires suites to ensure that all sectors of society receive appropriate information and education on HIV and AIDS, and that particular attention is paid to reaching people from remote location and members of disadvantaged groups."



National AIDS Control Organisation

Department of AIDS Control

Ministry of Health & Family Welfare, Government of India



Source: the "Declaration and charter on HIV and AIDS" of fights and Humanity, the Intonations' Movement for the Promotion and Realization of Human Rights and Responsibilities, London

<http://www.oikoumene.org>

4.1 Rights of HIV AIDS Patients - Meaning, obligations and limitations

The essence of human rights lies in the acknowledgement of equality and dignity of all human beings. Proclaiming human rights is not only a matter of political awakening, but is more about how an individual perceives himself. This will essentially depend on whether they believe themselves to be human beings, whether they consider themselves to be equal to the other communities or whether they have nurtured feelings of aggressive competition, prejudice, love and respect towards other communities.

To eradicate HIV/AIDS, it is extremely essential to promote the feeling of respect for human rights of every individual. This will ensure that each person will follow the principle of equality, which in turn will uphold the dignity of individuals without any discrimination.

Read and Reflect

"HIV antibody testing must occur with free and informed consent, except in the case of unlinked, anonymous epidemiological screening programmes segregation, isolation or quarantine of persons, schools, hospitals or elsewhere merely on the grounds of AIDS or HIV is unacceptable."

Source: "the AIDS charter", published by the AIDS Consortium, centre for Applied Legal studies, University of Wit waters and South Africa

Read and Reflect

"The duty of human solidarity requires everyone to cooperate in efforts to prevent all alternate human suffering and strive against injustice. With respect to the protection of public health, International human rights jurisprudence and public health law and practice confirm that public health measure which restrict individual rights and liberties and justifiable only to the extent that they are:

- Provided for by a 'specific law.'
- Strictly required for the protection of public health.
- Strictly proportional to the benefit to be gained from the policy or restrictive measure.
- Represent the least intrusive and restrictive method of achieving the desired end and
- Not arbitrarily directed against a particular individual, groups or section of society."

Source: the 'Declaration and charter on HIV and AIDS' of Rights and Humanity, London.

4.2 Impact and Causes of HIV/AIDS

HIV/AIDS has a disastrous impact not only on the individuals suffering from it but also on their family, community and society. Amongst all the epidemics the world has witnessed till now, HIV/AIDS has been the most devastating, not only in terms of increase in the mortality rate but also due to its negative impact on the social and economic development of nations. The number of HIV/AIDS patients are ever increasing due to the lack of education regarding HIV/AIDS, non availability of health care services and lack of skilled physicians. The increase in mortality due to HIV/ AIDS has led to reduction of the work force, which has indirectly affected productivity in various fields, especially agriculture. This has led to an upsurge in poverty all over the world, which in turn has increased the vulnerability towards HIV/AIDS infections. HIV /AIDS has proved to be catastrophic for millions of children in the developing countries. The children of HIV patients not only inherit the disease from their parents but many times they also bear the brunt of the disease





indirectly. When their parents and caretakers die due to HIV/AIDS, they shoulder the burden of earning a living and taking care of the family. HIV/AIDS has also had an adverse impact on women. It has been observed that women have lesser opportunities for economic independence all over the world. In spite of this women living with HIV/AIDS have been struggling to meet their own as well as their family's needs. To meet these needs many times girls are forced to leave school. Thus in a way HIV/AIDS has further increased gender inequalities.

The human rights approach to eradicate HIV/AIDS entitles every human being to the Right to Development, which includes enjoyment of economic, social, cultural and political development without any kind of discrimination. It also includes efforts to eradicate the underlying causes of vulnerability to HIV/AIDS and the negative impact. Thus the Declaration of Commitments for eradicating the negative social and economic impacts of HIV/AIDS must include:

- ❑ Development of strategies by nations for accelerating the process of eradicating poverty and impact of HIV/AIDS on individuals, families and communities. (with special focus on household income, livelihoods and access to basic services.)
- ❑ Development of strategies by nations to address the special needs of the most vulnerable groups, after reviewing the social and economic impact of HIV/AIDS at all levels of society. For example - women, children and elderly people.
- ❑ Development of economic and social developmental policies which are compatible with HIV eradication policies. These policies must include social protection policies, economic growth policies to decrease the impact of HIV/AIDS and policies for economic services (including labour service, government revenues and public resources).

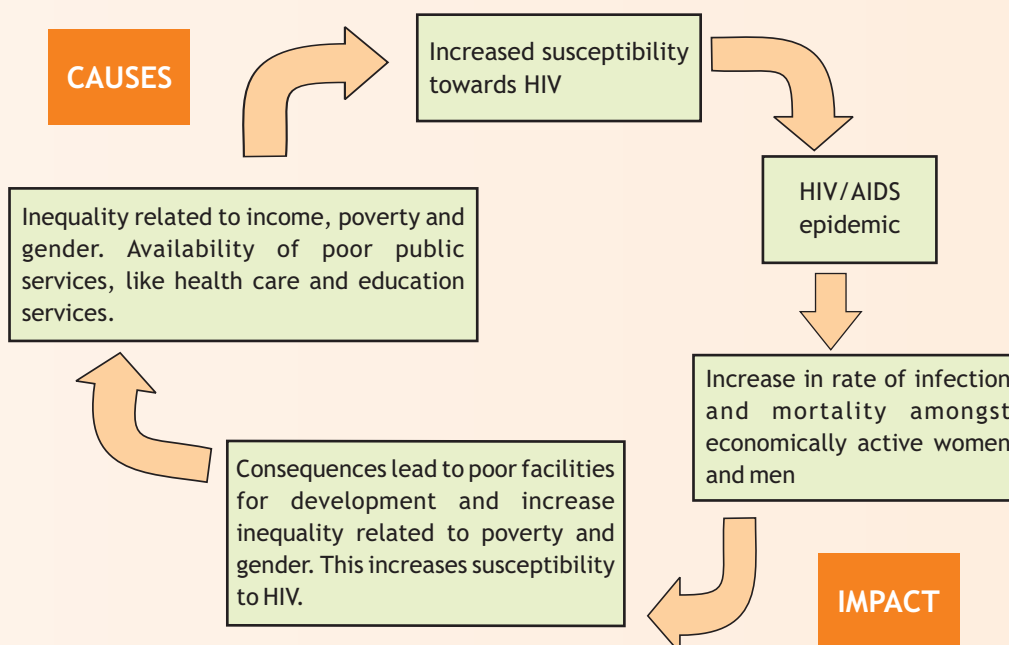
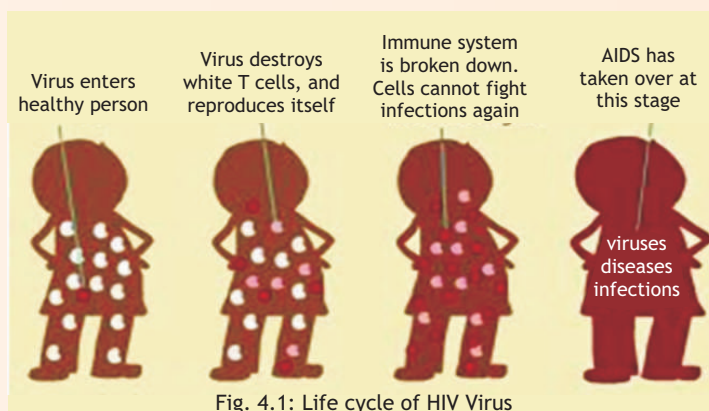


Fig. 4.2: Causes and impact of HIV / AIDS



4.3 The needs of those most vulnerable to HIV/AIDS and its consequences

There is a significant difference in the prevalence of the HIV/AIDS epidemic amongst the various social groups of the world population and thus the facilities needed for its eradication also varies. The impact of the remedies will depend on various factors like- whether there is high, medium or low HIV prevalence, whether the epidemic is widespread or concentrated with in specific populations. (people using/injecting drugs etc.)

The most essential step towards HIV eradication is to identify the groups most vulnerable to HIV. Various factors such as gender, age, ethnicity and socio-economic status, which shape the lives of people, must be taken into consideration. Once these groups are identified, priority must be given to them and resources must be allocated to meet their needs. This requires that we know the key population groups living with HIV/AIDS.

4.3.1 Impact of Gender Inequalities on HIV/AIDS

To eradicate HIV/AIDS, it is imperative to recognise the rights of women. Gender inequalities all over the world prevent women from accessing information, services and programmes related to HIV/AIDS. This has increased the exposure of women to HIV infection. Therefore it is extremely essential to recognise and respond to the variety of ways in which gender inequalities expose women and girls to the risk of HIV infection.

Besides other issues gender based violence further exposes women to HIV infection. Besides this, sometimes, the economic dependence of women on men forces the women to bear all the atrocities meted to them. Therefore the most appropriate approach for prevention of HIV/AIDS would be by empowering women with equal rights and encourage her economic independence. Moreover, it is also essential to educate men through programmes, so as to enable them to change their attitude towards women. In addition to this, it is essential to initiate changes, the norms of society which determine gender roles and in turn prevent in from accessing health programmes, preventive techniques, care and support for HIV/AIDS.

4.3.2 Impact of HIV/AIDS on Children and Young People

An alarming increase in the number of HIV/AIDS patients amongst the younger generation has been recorded. According to the latest survey, 38 percent of the HIV patients all over the world are below the age of 25. Therefore it is extremely essential to recognize the need for prevention of the spread of HIV/AIDS amongst the younger generation. The first step towards this aim would be to identify the sub groups of this younger generation who are most vulnerable to the infection. While doing so it was observed that the subgroups in this category were mostly young women and young people who inject drugs, and physically exploited children. Besides these it was also observed that majority of the young AIDS patients were the children of AIDS patients. The greatest irony is that many of them (an estimated 14 million children worldwide) have lost one or both parents due to HIV/AIDS. It is essential to adopt a holistic response towards such children, along with proper care by the community.

It has been found that majority of the young people do not know how to protect themselves from HIV. Besides this, social and cultural barriers prevent them from accessing proper health education, which is extremely essential for preventing HIV.

4.3.3 Impact of HIV/AIDS on Older People

Older people are also affected by HIV/AIDS but very often their needs are overlooked. Although the data available regarding the HIV patients over the age of 50 years though insufficient, is indicative of rising infection rates amongst the older people. It is true that due to the availability of HIV





treatment, e.g. **anti-retroviral (ARVs)** treatment, more people will be living with HIV/AIDS. Older people eventually end up being the caretakers of their adult children who have HIV or their grandchildren orphaned due to untimely death of their HIV infected parents. In spite of this, the elderly people are the most overlooked group among the HIV patients.

4.3.4 Impact of HIV/AIDS on People who Inject Drugs

Injection of drugs is also one of the most dominant factor for transmission and spread of HIV/AIDS all over the world. It accounts for almost 10 percent of the total HIV infections especially in Asia, North America, Western Europe, parts of Latin America, Middle East, Northern Africa and Russia. Since injecting drugs is considered to be illegal in societies all over the world, the users prefer to remain in hiding. Thus, the stigma associated with this use invariably leads to discrimination against people who use drugs. This further prevents them from accessing services that are being provided to HIV patients. Thus, the failure on the part of Government to protect the basic human rights prevents them from accessing health related support services. This has greatly undermined the HIV prevention efforts throughout the world. Therefore it is extremely essential that governments of various countries all over the world adopt appropriate techniques to eradicate discrimination against people who use drugs. Constructive programmes should be adopted to prevent their seclusion in the society. In addition to this a comprehensive range of services (e.g. drug treatment programmes and appropriate healthcare services) and education programmes should be adopted to help the people to understand the dangers of injecting drugs. Besides these the education programmes should also include knowledge regarding use of sterilised needles and syringes to reduce the risk of HIV infection. Concentrated efforts of International organizations, Governments of the World, and Social organizations are required to ensure that support, care services and programmes reach and involve people who inject drugs.

4.3.5 Impact of HIV/AIDS on Prisoners

Recent surveys suggest that adult and juvenile detention centres have a large number of people living with HIV/AIDS. This is due to the presence of people who are addicted to injecting drugs, in majority of the prisons. Physical abuse in such areas further aggravates the problem. In addition to this prisoners have limited and often no access to educative programmes for HIV prevention. This has a disastrous impact on not only the prisoners but also on the families and communities to whom they return on completion of the term of imprisonment.

4.3.6 Mobile Population (including Internally Displaced People, Refugees, Migrants and People seeking New Opportunities)

One of the largest factor that has led to an increase in HIV infected people is globalization. The growth in this epidemic clearly indicates the increased movement of the population of the world across various communities, countries and continents. People move to different parts of the world voluntarily or involuntarily, temporarily or permanently, on account of various reasons like internal conflict, natural disasters, in search of new livelihoods etc.

Whatever the reason for mobility, globalization certainly increases the vulnerability towards HIV/AIDS (both for people who are mobile and for their relatives). Besides these migrants also suffer due to isolation in the society. The various factors responsible for this isolation are stigma and discrimination, differences in language and culture, lack of legal protection, separation from their spouses, lack of support and friendship and lack of access to education, social and health and services. This further increases the vulnerability to HIV infection. Thus effective strategies are required to decrease the vulnerability of the mobile population all over the world. These must include effective cross-border and regional policies for mobile population, policies to improve the



legal status of migrants and efforts to protect the human rights of mobile population all over the world.

4.4 Relationship between HIV/AIDS and Human Rights

The spread of HIV/AIDS has considerably affected human rights of individuals and communities all over the world. Disregard of human rights also tends to increase the spread of HIV/AIDS.

The disease AIDS has deteriorated the effectuation of human rights for the entire humanity. This is evident from the fact that the disease is more prevalent amongst certain groups only, which depends on the prevailing social, legal and economic conditions. For instance, economically backward women and children are the most vulnerable to HIV/AIDS. Besides this it has been observed that the developing countries bear the brunt of the epidemic, where poverty along with AIDS hinders human development.

The relationship between HIV/AIDS and Human Rights is highlighted in the following three areas:

1. Increased Vulnerability

It has been observed that some groups are more vulnerable towards catching the HIV virus. The main reason for this is the lack of awareness towards their civil, political, economic, social and cultural rights. For example denial of human rights, such as the right to freedom of association and right to information leads to lack of information regarding preventive methods for HIV/AIDS. Similarly unequal status, lack of information and lack of education to young women to ensure sexual and reproductive health, increases their exposure to HIV/AIDS infection. In addition to this lack of economic resources, also prevents some people from accessing provisions of HIV care and treatment, including the antiretroviral and other medications prescribed for its prevention and cure.

2. Discrimination and Stigma

Stigmatizations and discriminations faced by people suffering from HIV/AIDS in society not only obstruct their access to treatment but may also affect their employment, housing and other rights. The burden of the disease combined with loss of rights, further amplifies the troubles of people suffering from HIV. This in turn contributes to the increase in bias of the common public towards HIV/AIDS infection, due to which, the individuals infected by HIV prefer to remain in hiding. They are thus indirectly discouraged from contacting health and social services. The repercussion of this is that the individuals infected by HIV/AIDS are not able to access the services (such as education, treatment, counseling etc.) available for them.

3. Disrespect of Human Rights hampers Preventive Efforts

The biggest obstacle in the path of prevention of spread of HIV/AIDS, is the disregard of human rights in certain factions of society. Discrimination and stigmatization of drug users, sex workers, etc. tend to drive these communities into hiding from the mainstream. This prevents the authorities and social workers from reaching out to them with their services and prevention programmes, which increases their vulnerability to HIV/AIDS. Thus lack of access to education, treatment, care, support services and information about HIV/AIDS, further fuels the AIDS epidemic. Thus the essential components for an effective preposition to eradicate HIV/AIDS are thwarted if these rights are not respected.

Ever since the first AIDS cases came to light, HIV infected people have been facing discrimination and segregation in society. Since the 1980's the basic human rights of the HIV patients were being encroached, by subjecting them to mandatory testing for HIV, by setting constraints for their international travel and by restricting their access to employment,





housing, education, medical care, health insurance, etc. In addition to this, one of the biggest problems faced by the HIV patients is intrusion of their privacy. For example - many of them are forced to report the names or notify their partners. These grave issues concerning AIDS have not been resolved even after 20 years. In fact the lives of the AIDS patients have become complex because the older issues and problems which make them feel alienated remain and new ones have added. For example, it was observed that even in the areas where the situation had improved, people infected with AIDS still lack access to employment. Besides this they are also denied many current rights, such as health insurance schemes at their workplace. Exclusion of these rights has a considerable negative impact on their health and their working capacity.

In the contemporary world awareness for human rights has increased remarkably. The projection of the violation of human rights of HIV/AIDS patients was now projected accurately also. Numerous human right issues of HIV-infected people have been raised up till now all over the world. The most prominent amongst these are the ones concerning the growing disparity, particularly the inequality faced by them in accessing services, care and treatment. The first step taken in the direction of protection of human rights of people living with HIV/AIDS, was taken by WHO's call for compassion towards them. Although humanitarian ground was the main motivation behind this step, WHO declared the threat posed to worldwide public health by this emerging epidemic, as the main reason for advocating this policy. Due to the efforts of the WHO soon an International Law for Protection of the rights of people infected with HIV was framed. This international law, made the various government and inter-government organizations directly accountable for their action towards people living with HIV/AIDS. Thus the greatest achievement of this era is the recognition of an international law for people suffering with HIV.

4.5 What are AIDS-Related Human Rights?

To eradicate HIV and for an effective response to people infected with AIDS, it is extremely essential that certain basic human rights are recognized and protected internationally. It must also be ensured that these human rights are protected and fulfilled by all the nations of the World.

These basic rights must encompass the right to:

- ❑ non-differentiation and equal protection to all, without any distinction on the basis of HIV status.
- ❑ equality in accessing the various available HIV-prevention services.
- ❑ equality in accessing the available HIV treatment (including the anti-retroviral treatment, and the treatment for transmission of HIV from mother to child).
- ❑ protection by the courts of law, e.g., injecting drug users etc., who are the most vulnerable to HIV.
- ❑ freedom for selection of one's residence or migration to any place in the world.
- ❑ seek any available provisions or system.
- ❑ avail any medical treatment and insurance of protection of privacy of every individual.
- ❑ freedom of expression, with the right to access and impart all HIV related information.

Read and Reflect

"We can halt the spread of AIDS. We can even reverse it. Above all, the challenge of AIDS is a test of leadership. Leadership has formed the basis of whatever progress we have achieved so far."

Kofi A. Annan, Secretary-General of the United Nations.



- ❑ freedom to participate and organize associations or organizations for eradication of HIV /AIDS.
- ❑ a respectful social and working environment, irrespective of the HIV status.
- ❑ marriage and family life.
- ❑ equality in accessing education, with special provisions for children affected by HIV.
- ❑ access to an adequate standard of living, with special provisions for maintaining good health, ensuring social security and well being.
- ❑ freedom from any kind of inhuman or torturous and cruel treatment or punishment.

4.6 What a Government can do for Human Rights in the Context of HIV/AIDS

With the application of an international law for HIV/AIDS, the governments of the various nations all over the world have been made directly accountable for their actions towards people infected with HIV/AIDS. Thus in a way the Government of a nation is indirectly responsible for the violation of human rights of people living with HIV. This is because it is the responsibility of the various governments to ensure an environment where the rights of the people affected by AIDS are protected and they are guaranteed a respectful life. It has been accepted that the governments have responsibilities at three levels, for every human right:

1. The government themselves must respect and abide by the right.
2. They must assist in protection of the right.
3. They must ensure the fulfillment of the right.

The responsibility associated with respecting rights, makes the government directly accountable for the violation of human rights. For example - the right to education is directly violated, if children are prohibited from attending school due to their HIV status. Further the responsibility associated with protection of the right means that the government should not only prevent the violation of basic human rights, but must also provide remedies to prevent its violation beforehand. A more proactive policy must be adopted.

Last but not the least, fulfillment of the right by the Government, means that, the States must ensure that nuances of complied with the right is guaranteed to everyone. This could be ensured by the provision of appropriate legislative, administrative, budgetary and judicial machinery by the state, for the support of the right. For example - failure on the part of the government, for ensuring HIV/AIDS preventive education in the language and media easily accessible and understood by the general people would be a violation of the right to education.

The main hindrance in the immediate accomplishment of these rights is lack of resources. For example - the fulfillment of the right to basic education cannot be ensured by just passing a law. It in fact involves a lot of work and provisions, like financial resources, trained teachers, school building and other facilities required for teaching, textbooks and a sustainable infrastructure. Therefore even a steady progress towards the accomplishment of rights is considered as realization of rights. Thus the principle of "*progressive realization*" is considered as the basis of accomplishment of rights.

Read and Reflect

"We should see the problems of AIDS as an opportunity for us to deepen and broaden our understanding of fellow human beings. We should not stop simply at trying to control the disease or caring for those who have contracted it but [use] it as an opportunity for developing our humanity".

Aung San SuuKyi,
Myanmar. Opposition
leader and Nobel Peace
Prize Laureate

Read and Reflect

Prevention of Mother to Child Transmission of HIV (PMTCT)

Women who are HIV positive can impart the disease to her child during pregnancy or via breast





feeding. It has been observed that one of the greatest cause of HIV infection in children below the age of ten years is, mother-to-child transmission(MTCT).

Nevertheless, due to the advent of anti retroviral drugs, which are imparted to expecting mothers immediately before and after child birth, have greatly decreased the rate of MTCT. But for the fruitful realisation of eradicating MTCT through the use of anti retroviral drugs, obligatory HIV testing of pregnant women needs to be introduced.

In spite of this majority of people involved in policy making and medical practitioners are against the obligatory HIV testing of expecting women. This is because these people are afraid of the fact that obligatory testing of HIV may violate the privacy of individuals. This may also prevent women from taking medical assistance during pregnancy, due to the fright of being differentiated and bearing stigma in the society on being declared HIV positive.

To avoid this controversy many nations have introduced the obligatory testing of newborn babies. But this is also disapproved by several people as it also interferes with the rights of women as the rights of mother and child are connected with each other.

Women therefore the greatest need of the time is to provide adequate counselling to pregnant women, educating them about the consequences of avoiding the HIV tests for them and their new appropriate care and medical assistance in case the results prove them to be HIV positive.

Assurance must also be given for keeping the test reports as confidential so as to avoid discrimination and stigma in the society.

Source: *Legal Aspects of HIV/AIDS*

Source: "A Guide for Policy and Law Reform, 2007"

In the wake of epidemics, very often it is necessary to take certain steps which may appear to impinge on the rights of freedom. This may occur only for the larger good namely communal good or societal health. The International Covenant on Civil and Political Rights clearly states this "***secure due recognition and respect for the rights and freedoms of others; meet the just requirements of morality, public order and the general welfare; and in times of emergency, when there are threats to the vital interests of the nation.***"

To control diseases which prove fatal or become epidemics the Government institutes restrictions on the already infected or those vulnerable to the particular disease. These restrictions sometimes even take the form of pressure or compelling people to do the right thing against their will. Sometimes these measures are considered exaggerated and unreasonable. For example, quarantine in the case of diseases like pulmonary tuberculosis, Ebola hemorrhagic fever etc. may not be understood as necessary step to a mother. HIV/AIDS is another disease which needs close attention.

Care must be taken that the restrictions imposed are in accordance with the law. Communal interest and the objectives of a democratic society should be the basis of the action.

4.7 International Guidelines on HIV/AIDS and Human Rights - A Prominent Legislative Tool for the various Governments of the World

In order to provide guidance to the various governments of the World, for proper promotion, protection and fulfillment of human rights of HIV patients, the International Guidelines on HIV/AIDS and Human Rights were devised. These guidelines were devised keeping in mind the needs of the various governments of the world, especially because of the requirement of legislation on AIDS by the World.



Read and Reflect

"We have reached such an advanced stage in the spread of the AIDS pandemic that there is almost no time left for merely feeling and thinking and talking... concrete action is what is required every day and every hour."

- Nelson Mandela

The first step in this direction was taken up as a joint venture of United Nations Centre for Human Rights (UNCHR) and the Joint United Nations Program on HIV/AIDS (UNAIDS). Thirty-five specialists of HIV/AIDS and human rights were invited for an International Conference on HIV/AIDS and Human Right in Geneva, in the year 1996. This Conference resulted in the development of a common plan by the government officials of various countries, members of National AIDS Program, people living with HIV/AIDS (PLWHA), human rights activists, academicians, regional and national representatives of the various agencies of law, custodians of human values, human rights activists, activists of HIV, various UN agencies and organizations, non governmental agencies and members of AIDS Service Organizations (ASOs).

The formulation of International Guidelines on HIV/AIDS and Human rights was effected after the conference. This guideline was publicized by the Office of the High Commissioner on Human Rights (OHCHR) and UNAIDS in 1998, in the form of twelve principal guidelines.

These twelve guidelines were accompanied by commentaries, suggestions and techniques for successful implementation.

These Guidelines have been revised from time to time, to incorporate the new political and legal provisions regarding the treatment, the advancements in HIV-related treatment (especially antiretroviral medication) and provisions for removal of disparity in accessing the treatment by the concerned groups of people.

The publication of the International Guidelines on HIV/AIDS and Human rights greatly highlighted the issues of HIV patients. This has led to several developments regarding right to health and equality in accessing HIV-related prevention, treatment, care and support.

Another significant international initiative to eradicate the AIDS epidemic was taken in 2005, at the World Summit outcome.

The most significant development that took place out here was the adoption of the goal of *"universal access to treatment for all who need it"*. The time period planned for its achievement was 5 years, i.e. by 2010. This goal was further reiterated by the Political Declaration on HIV/AIDS, in 2006

The International Guidelines on HIV/AIDS and Human rights were once again revised in 2006. Since then they are the most importance source of inspiration and guidance for various governments, parliaments, international organizations, non governmental organizations and social organizations, that have been working for the development and implementation of effective national strategies for the eradication of HIV/AIDS.

4.8 HIV/AIDS, Public Health and Human Rights in Exercise

The work of the protection of the rights of HIV infected people is not complete by just framing and declaring human right laws. In addition to this, for the effective implementation of the laws, it has to be affirmed that the laws framed are being followed by all. However the human right laws and concepts are extremely beneficial, in examining the extent to which the governments of the various nations all over the world have been able to implement, security and realization all civil, political, economic, social and cultural rights successfully. Monitoring Committees play an important role to this end.





4.8.1 Justification and Accountability of Implementation of Laws and Rights by the Governments

It has been accepted globally that the governments of the nations all over the world are essentially responsible for the progression and security of the health and human rights of the people of their nation. Although majority of the international human right treaties have not outlined the rights of individuals infected by HIV/AIDS, yet approximately all the international human right organizations are committed in examining the extent to which the governments of various nations all over the world, have been able to implement their responsibility towards attainment of human rights of people affected by AIDS. Thus it has become extremely important to focus on both HIV/AIDS and Human Rights issues with each other together. This has been implemented on a large scale by majority of the governments, which is best seen in their outlined obligations. For example, majority of human rights treaty-monitoring bodies have expressed their concern over increasing rates of HIV infection.

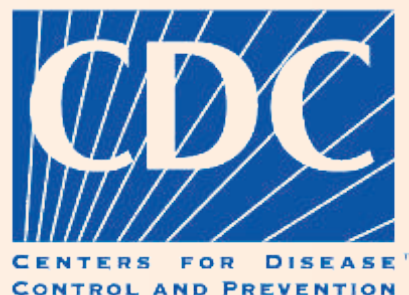
Amongst the six human rights treaty monitoring bodies, the Committee on the Rights of the Child and the Committee on the Elimination of All Forms of Discrimination against Women, have been participating most actively in the AIDS related human right issues. These organizations have focused specifically on laws and policies, which may lead to a significant augmentation in the number of HIV patients. For example, the need for parental consent in the lives of adolescents leads to lack of knowledge regarding prevention of AIDS. Therefore the primary aim of these organizations is to make the governments understand the need of a human right framework for prevention of HIV. They also aim to make governments target to the needs of affected populations, including provision for imparting information and education regarding HIV to the masses and ensuring care and support for the people living with HIV.

In addition to this, UN's declaration on Human Rights and the International Guidelines on HIV/AIDS and Human Rights has considerably increased the focus on HIV related issues. They have also provided the policy makers all over the world, with useful tools for designing policies for people affected by AIDS. At several international conferences the governments of various nations of the world have made political commitments so as to ensure the rights of people suffering from AIDS. One such conference was the U.N International Conference on Population and Governments, held at Cairo in 1994 and the UN Fourth World Conference on Women, which was held in Beijing in the year 1995.

Last but not the least, at the special session of the UN General Assembly held in June 2001 on HIV/AIDS, one of the most important document for the advocacy of HIV/AIDS issues was signed by several countries. This is known as the 'Consensus Document'. It is considered as one of the most explicit programme guide for protection, promotion and implementation of human rights in the context of HIV/AIDS.

4.8.2 Contribution of Human Rights in Designing of Policies and Programmes for Eradication of HIV/AIDS

In context of health policies and programmes, the human rights may be considered as an obligation on the part of the Government towards the public. Due to these obligations, the various governments of the nations are held legally responsible to reduce the spread of HIV/AIDS, through their various policies and programmes. The Government of Nations should protect and ensure the fulfillment of human rights not only





because it is their legal duty but also because it is their moral duty. The government should not only examine the health issues on the basis of technical and operational factors but also in relation to the social, cultural, political and economic factors. These may include factors like gender issues, religious issues, homophobia, racism etc.

These factors individually or in synergy, considerably influence the decision-making capacity of individuals which in turn influence their capacity to access the available health services. Thus the presence or absence of these factors, also influence the extent of vulnerability of individuals towards HIV/AIDS. Thus the human rights can be more effective if they are designed and implemented in accordance with health policies and programmes.

It has been observed that in the contemporary world, the differences and enmity between the various nations of the world are threatening the commitment made for eradicating HIV/AIDS. The entire World must understand that to control and eradicate an epidemic such as AIDS, action is required not only within a country's own borders but also beyond its boundaries. Therefore to eradicate AIDS from the world, in addition to a sustained commitment, international assistance and cooperation is also required.

Unit End Reflections

Comprehension Questions

1. What is HIV? Explain the term AIDS.
2. What are the main causes of HIV infection? Why women and children are most vulnerable to HIV/AIDS?
3. How does the impact of the remedies depends on factors like - high, medium or low HIV prevalence, gender inequalities etc. elaborate.
4. How are Human Rights and HIV/AIDS issues related to each other? Review any program being run by NACO and identify the objectives that correspond to Human Rights.
5. What is the role of the governments of various Nations in getting the Human Rights for HIV/AIDS implemented? How do monitoring committees contribute to this end?

Case Study

According to 2012 UNAIDS report, *'New HIV infections in children dropped by 43% from 2003 to 2011. In fact, new HIV infections in children declined by 24% in the last two years alone, which is equal to the decrease between 2003 and 2011.'*

Two-thirds of the decrease in new HIV infections-in adults and children-in the 24-month period between 2009 and 2011 were among newborn children. This reduction has been accelerated by the rapid progress made in the last two years in giving more women living with HIV access to prevention and treatment services.'

In light of above information, compile a review report on various NACO's programs that have helped in reducing the new HIV infection cases. Collate data for past five years in terms of success and challenges.





CHAPTER 5: RIGHTS OF THE DISABLED AND OTHER VULNERABLE GROUPS

The Constitution of a country is the system of fundamental principles according to which a nation; state, corporation or the like is governed. The Constitution of India came into force on 26 January 1950. The Indian Constitution has given us fundamental rights which are relevant to all factions of society including the disabled and other vulnerable groups. There have been several amendments in the Constitution since its existence. After studying this chapter you would have a good idea about

Read and Reflect

The once commonly used word 'handicapped' is now no longer prevalent. Disabled is more acceptable. We could see the difference in the connotation of the two words by considering a few examples.

1. *Rita, a visually impaired student is not able to cope with academics. It is true that Rita is visually disabled but she is handicapped only because she does not have the required support or means to study. She would require auditory and - tactile inputs to help her cope.*
2. *Vikram had an accident whereby he lost his arms. Now he cannot appear for his exams. Vikram is disabled because he has no arms and cannot write. He is handicapped only because his environment is not able to provide him with the support of a writer.*

People with disabilities must be treated at par with other citizens and be given the support as well as opportunities that will enable them to reach their full potential. This is conceivable only when we admit that they must be given rights and freedoms.

- ❑ The disabled and other vulnerable groups
- ❑ The rights that have been accorded
- ❑ The purpose of giving special rights to them
- ❑ Important acts
- ❑ Major government and non-government functionaries working for the disabled and other vulnerable groups
- ❑ Effectiveness of these acts and rights as well as lacunae.

5.1 Disability-Meaning

An individual may be disabled due to medical reasons from birth or become so in due course of his/her life. It would result in them being perceived as deficient in their mental, physical or emotional faculties. This person would have impediments which require medical intervention or special support. The disability in question would be tantamount to the restrictions that the person experiences in daily life. For example a person may not be able to climb the stairs to reach the floor he/she lives in. Thus, he/she is disabled. According to the **World Health Organization**, a disability is... *"Any restriction or lack (resulting from any impairment) of ability to perform an activity in the manner or within the range considered normal for a human being"*.

According to ICIDH *International Classification of Impairments, Disabilities and Handicaps* is as under:

5.1.1 Impairment

According to **World Health Organization (WHO)** *Impairment is a "loss or abnormality of psychological, physiological, or anatomical structure or function"*.

1. Impairment of intellectual ability, Psychological Impairment, Impairment of language and wording
2. Hearing impairment
3. Visual impairment
4. Organs impairment
5. Bone impairment
6. Scarring and Aesthetic impairments
7. Generalized impairments, sensory and of other kind



5.1.2 Disability

Disability is any limitation or lack (which may have precipitated due to damage) of the capableness to carry out an activity in a normal way that a human being would do. [According to World Health Organization (WHO)]

1. Behavioural Disability
2. Disability of Communication
3. Disability in Caring of Oneself
4. Disability of Movement
5. Disability due to Body Assets
6. Disability of Dexterity
7. Disability of Circumstance
8. Disability within Specific Activities
9. Other restrictions to ability

Read and Respond

- Q1. What does this symbol signify?
- Q2. What should your reaction/ thoughts be when you see this?
- Q3. Where have you seen this symbol?



5.1.3 Handicap

Handicap is defined by World Health Organization (WHO) as a disadvantage for a given individual, resulting from impairment or a disability, that restricts or hinders the fulfillment of a function normally (depending on age, gender, and social and culture factors) for that individual.

1. Handicap of Orientation.
2. Handicap of Physical Independence
3. Handicap of Mobility
4. Occupational Handicaps
5. Handicap in Social Integration
6. Handicap in Economic Self-Sufficiency

5.2 Meaning of Vulnerable Groups

Read and Respond

List your own definition of the word 'vulnerable'. Use a dictionary or similar resource tool to create your definition. Relate that definition to an individual or group. For instance, a dictionary might define vulnerable as open to attack or damage. Therefore, if someone is vulnerable, is he or she open to attack or damage? How?

Vulnerable groups may be defined as certain groups of the population, who may encounter discriminatory treatment or need some kind of special attention for their protection to avoid exploitation or a harmful environment.

From ancient times to the modern era, in every society there are instances wherein a section of people are meted a different or biased treatment. As a result of this, such people do not participate in social, economic or cultural activities of the normal society, therefore, depriving them of their right to life and right to liberty.

Read and Respond

Do you feel that you belong to a vulnerable group? Why or why not? If you do feel that you are part of a vulnerable group, do you feel any solidarity with that group? What are your thoughts about the group? Do you wish that you were not part of that group?

They are relegated to the position of serving the privileged people of society.

In order to stop such malpractices and to wipe out the miseries of such groups around the World, the international community of nation-states adopted a number of documents which were in tune with the International Law of Human Rights, so as to extend protection to all without any kind of discrimination whatsoever.





The United Nations has adopted a number of Declarations, Conventions, and Covenants to uplift the rights of the people who are weak and oppressed. It also established special commissions and organizations to deal with the rights of such people whose rights are in jeopardy.

To completely understand the purpose of these rights, it is important to grasp what Human Rights are. Human Rights are the basis of civilized human society. They are thus core to the dignity of each being. Human Rights is not a concept that is abstract. It affects the reality and daily functioning of every human in society.

5.3 Significance of Human Rights

Human Rights are freedoms such as life, liberty, security and other guarantees. They are generally understood as inalienable claims or entitlements against state or society held equally by all persons simply by virtue of the fact that they are human beings.

5.3.1 Human Rights and the Vulnerable Groups

All the documents of human rights are committed for the promotion of human rights of all, including the vulnerable groups. In the array to advance and defend the rights of these people, the International Community has adopted a number of special documents. Most vulnerable groups are struck by the same maladies such as poverty, lack of access to nutritional food, sufficient clothing, adequate shelter, education, health facilities, social security, access to law and judicial system, participation in the governance, et.al. In spite of the adoption of legal instruments and policy formulations both at the international and national level, specifically to promote the rights of these groups, the socio-economic as well as the cultural aspects prevailing in each society, hamper the rights of these people to a great extent.

In order to enable the disadvantaged sections of people, the United Nations appointed a number of committees and commissions to deal with the issues specific to each vulnerable group. Based on the reports of the various committees, the UN has adopted a general framework to eradicate and to address the adverse situations faced by these groups. The suggestions include:

- ☐ equal pay for equal work
- ☐ independent mechanism or commission to establish and to deal with each category of people
- ☐ basic compulsory education
- ☐ special concessions to these people
- ☐ provisions to enable them to take part in the governance
- ☐ independent forums to express their grievances
- ☐ easy accessibility to medical and health care; and
- ☐ efforts to raise the standard of living, subsidized food supply, eradicate malnutrition, abolish any customary practices that threaten their survival, overall social security etc.

Read and Respond

Discuss in groups of 8:

Why should a vulnerable individual or group should receive special treatment?

Make a PowerPoint Presentation for your class.

5.3.2 International Endeavours for the Disabled

IMPORTANT HISTORIC DATES (UN)

1971 - Declaration on the Rights of Mentally Retarded Persons

1973 - The first handicap parking stickers are introduced in Washington, D.C. (USA)

1975 - Declaration on the Rights of Disabled Persons

1976 - Passage of an amendment to Higher Education Act of 1972 in the USA provides services to



physically disabled students entering college

1979 - The U.S Olympic Committee organizes its Handicapped in Sports Committee

1982 - UN General Assembly adopts the World Programme of Action concerning Disabled Persons

1983 - ILO Convention (159) on Vocational Rehabilitation and Employment (Disabled Persons)

1983-1992 - Decade for Disabled Persons

1992 - UN General Assembly proclaims that 3 December every year be observed as the International Day of Disabled Persons

1993 - UN General Assembly adopts the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities

There are approximately 7 billion people in the world today. Of these, about 600 million people face a disability in one form or the other.

There is a wide range between the estimation of disability rates in developed and developing nations. This disparity or variation is largely dependent on the variation of the definitions itself.

In order to protect the rights of the disabled, international standards and steps were put into place, they include:-

1. The Universal Declaration on Human Rights(1948)
2. The International Convention on Civil and Political Rights(1966)
3. The International Covenant on Economic, Social and Cultural Rights(1966)
4. The UN Declaration on the Rights of Mentally Retarded Persons
5. The UN Declaration on the Rights of Disabled Persons
6. General Comment No. 5 to the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1994
7. Decade of Disable Persons, 1983-92
8. Asia Pacific Decade of Disabled Person, 1993-2002
9. Asia Pacific Proclamation on Full Participation and Equality of People with Disabilities in the Asian AND Pacific Region, 1992
10. The 1994 Salamanca Statement and Framework for Action for Special Needs Education.

1983-1992 was declared the Decade of Disabled by the United Nations. Subsequently the decade for Asian and Pacific of Disabled Persons was declared to be 1993-2002. These periods saw a rise in the general awareness as an increasing number of individuals begun to question this discrimination. In the year 1992, a proclamation on the complete inclusion and equality of individuals suffering with disabilities in the Asian and Pacific region, was adopted. India was among the countries that pledged its allegiance to the proclamation.

5.4 Rights of the Disabled

Disabled people have been perceived as deviant from the norm. They have suffered exclusion in many ways whether physically, mentally or emotionally. Ranging from a lack of respect to more severe form of abuse, people with disabilities have been ostracized, institutionalized and even isolated from general society.

With the ever changing scenario of human rights and the subsequent recognition of several

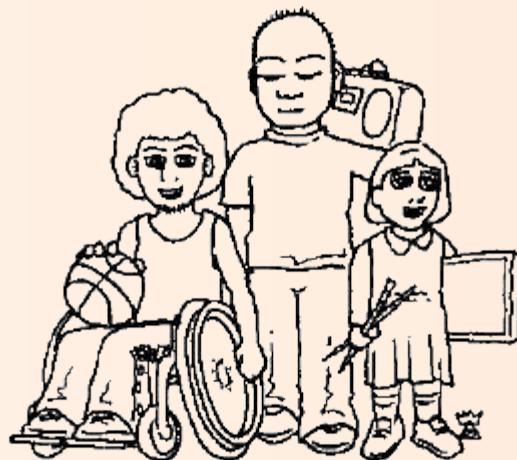




marginalized groups, people with disabilities too have now been conferred with the basic rights.

Following are the laws relating to the rights of disabled people in India:

1. **The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995-** This is perhaps the most important legislation in this field. It was landmark legislation because, for the first time, it was clearly stated that people with disabilities had the right to equal opportunities and to fully participate as citizen of the country and that these rights would be protected by the law.



I can and I will

The Act is arranged in three distinct parts:

Part I: comprises Chapter 1-4 dealing with the administrative arrangement for implementation.

Part II: comprises Chapter 5-11 dealing with the substantive rights and correlated obligation

Part III: provides a mechanism for the monitoring of the Act in the Centre and States. Chapter 12 establishes the office of the Chief Commissioner and State Commissioners for person with disabilities.

The Act provides for a monitoring mechanism in the Centre as well as in States. For this purpose it has established the office of the Chief Commissioner and State Commissioners for person with disabilities.



Symbols related to disabilities

2. **The Rehabilitation Council of India Act 1992-** This established the Rehabilitation Council of India, a body that standardizes and improves the quality of rehabilitation services available to people with disabilities.
3. **The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999 -** As the name suggests this Act requires the setting up of a body to promote the welfare of the categories as mentioned in its name. This is important more because as we will see later, some of these categories are outside the scope of the Persons with Disabilities Act. Importantly, the act not only talks about institutional machinery for the care of such disabled people, it also focuses on ways to empower disabled person to live independently or as fully as possible within the community. (www.thenationaltrust.co.in)
4. **The Mental Health Act, 1987 -** This Act amended and improved old laws relating to the care and treatment of people who suffered from a mental illness. It states that these people should not be subjected to physical or mental indignity or cruelty and that they should not be used for research without informed consent from competent persons.
5. **Juvenile Justice Care and Protection of Children Act 2000 -** Though this Act deals mainly with the treatment of '*children in conflict with the law*' and '*children in need of care and protection*', it also considers in its ambit children with disabilities. It defines children who are



Rehabilitation Council of India



mentally and physically challenged, with no one to support them, as being '*children in need of care and protection*'. It is mandatory for the State to provide adequate services for such children.

5.4.1 Government Agencies and their Role in the Field of Disability

1. **The Ministry of Social Justice and Empowerment** regulates the schemes, welfare policies and activities for the disabled persons.
2. **Ministry of Human Resource Development** has made its Education Department in charge of developing and implementing the concept of integrating/including children with disabilities into the mainstream education system. The National Policy of Education provided the required impetus to formulate the *Integrated Education for the Disabled (IED)*. The *District Primary Education Programme (DPEP)* which includes provision for children with disabilities has also been implemented.
3. **Ministry of Labour** is responsible for the special employment and job reservations for the disabled.
4. **Ministry of Health and Family Welfare** is responsible for the prevention, early detection followed by effective therapeutic remedies of disabilities. Immunization programmes are examples of this.
5. **Rehabilitation Council of India (RCI)** monitors and regulates the facilities and services offered to persons with disabilities. It works towards standardizing the syllabi and maintains records of qualified professionals working in the field of disability. The *RCI Act* was enacted by the Parliament in 1922 and in 1993 it became a Statutory Body. The Act stipulates punishment for persons without the required qualification who deliver services to the disabled.

All the State Governments and Union Territories in India have established welfare departments to look after the welfare programmes for the disabled people.

The role of the Government is to galvanize and stimulate the action to be taken. To promote the specialized services for the disabled persons with a view to enable them to become self-respecting and self-reliant citizens contributing to the Nation's human resources. The Government of India and State Governments have adopted the following measures:

1. Preventive measures
2. Legislative measures
3. Education
4. Vocational Training
5. Employment
6. Training of rehabilitation personnel and administrators
7. Research and development

5.4.2 Mobilization of Resources

As far as mobilization is concerned, the role of Government is to:

- ☐ Provide adequate allocation of fund for the maintenance and development of services for the disabled.
- ☐ Assess the nature and scope of community and local authority resources and wherever necessary take administrative and legislative steps to channel such resources.
- ☐ Discovering new resources at local level.





- ❑ Enriching voluntary organizations to create an opportunity to mobilize resources more successfully.
- ❑ Enter into international collaboration for funding, technical expertise and personnel training in the welfare of the disabled.

5.5 Rights of the Other Vulnerable Groups

As mentioned earlier other vulnerable groups include Women and Girls, Children, Elderly persons, Persons with disabilities, People living with HIV/AIDS etc. Each of these groups is at a back foot and needs to be given certain privileges in order to be at an equal standing. It is their innate capabilities that render them vulnerable and thus need to be protected. We will thus look at the provisions made for each of these groups as separate sections.

5.5.1 Women as a Vulnerable Group

Women and girls are considered the weaker sex world over. In developing countries, the scenario is grimmer. Due to deplorable poverty, superstitions, derogatory practices and customs the rights of a woman are often ignored thus making it essential to make provisions for the protection of these rights.

From the world perspective, the United Nations and the international community have formulated a number of policies to safeguard and amplify the rights of women.

The *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* is the most significant part of the human rights document that deals with the human rights of women.



Read and Reflect

According to, **CEDAW gender discrimination** is, "Any distinction, exclusion, or restriction made on the basis of sex that has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field (Article 1, para. xx)."

This convention was the turning point in the development of women's rights. The convention, which came into force in 1981 dealt with the eradication of any form of discrimination against women. 187 countries have endorsed the convention.

CEDAW constitutes a preamble and 30 articles which define instances that constitute as discrimination and delineates certain strategies to combat such discrimination. The focus is to boost the status of woman.

Countries that have concurred to follow the principles of human rights incorporated in the CEDAW appreciate that the *"full and complete development of a country, the welfare of the world, and the cause of peace require the maximum participation of women on equal terms with men in all fields"* (United Nations, 1981, Preamble).

Countries that corroborated to CEDAW realize *"the great contribution of women to the welfare of the family and to the development of society."*

As a country, India has always laid great emphasis on Human Rights and is committed to safeguarding these fundamental freedoms to all.

The Constitution of India adopted on January 26, 1950 quashed all kinds of prejudiced practices against women. The Constitution, based on the Universal Declaration of Human Rights 1948 recognizing the rights of women, makes provisions to not only protect but also to emphasise the rights of women. Some of the Salient Features are:



- ❑ The Constitution through Article 14 recognized equality and equal protection before law for both men and women.
- ❑ No discrimination against women is permissible. (Article 15 (1)).
- ❑ Equality of opportunity in matters of public appointments for all citizens is guaranteed and in particular gender-based discrimination in respect of employment or office under the state has been prohibited. (Article 16).
- ❑ Through Article 15 clause (3) it permits the state to make any special law or provisions or concession to be extended for the promotion and welfare of Women. Article 21 guarantees the Life and Liberty to all the citizens without any sort of discrimination.
- ❑ The Directive Principles of States Policy (which in the language of human rights described as Economic, Social and Cultural Rights) directs the State to make provisions through Article 39 (a) the state to ensure both men and women have the right to an adequate means of livelihood.
- ❑ Article 39 (Clause D) provide for equal pay for equal work without any discrimination.
- ❑ Article 42 allows the state to make provisions for securing just and human conditions of work and maternity relief.
- ❑ According to Article 51(A) (e) it is the fundamental duty of every citizen to renounce practices derogatory to the dignity of women.

To achieve the objectives of the constitution and to discharge its international obligations of elevating the rights of women, the Government of India enacted a number of special legislations and amended some of the existing civil, criminal, and family laws.

These are:

- ❑ **The Dowry Prohibition Act, 1961** that prohibits the demand of dowry by the in-laws in any form linked with the marriage of women.
- ❑ **Child Marriage Restraint Act 1929** amended in 1956, prohibits the marriage of a girl below the age of 18 years, and if is performed, it is considered as a crime where in the elders and the husband are punishable. This Act increased the age limit of a female from 15 to 18 years and that of a male from 18 to 21 years.
- ❑ **The Hindu Marriage Act, 1955** as amended in 1976 provides equal right of inheritance of property for women as a coparcener in the joint property of a family. This Act further provides the rights to a girl to repudiate any child marriage performed before attaining majority.
- ❑ **Immoral Traffic (Prevention) Act 1986** (which repealed the Suppression of Immoral Traffic Act of 1956), prohibits selling, soliciting women or girls for any immoral purpose including keeping them in brothels. The aim of the Act is to prohibit physical exploitation of person, which includes men and children. It decriminalizes prostitution.
- ❑ **Indecent Representation of Women (Prohibition) Act 1986** : This act punishes the exploitation of women or depiction of women in any indecent manner that affects the dignity of women. It makes such acts a criminal offence.
- ❑ **Commission of Sati (prevention) Act 1987**: This act prohibits any kind of act forcing a woman to immolate along with the dead body of the husband. This is again a criminal offence where in the punishment may be awarded up to life imprisonment.
- ❑ **National Commission of Women Act 1990**: This Act was enacted to establish a National Commission of women to monitor and to help women related issues, especially to review the





Constitutional and Legal safeguards for women ; to recommend remedial legislative measures; to facilitate redressal of grievances and to advise the Government on all policy matters affecting women.

- ❑ **Prenatal Diagnostic Technique (Regulation and Prevention of Misuse) Act 1994:** This Act prohibits scanning of a foetus and performing illegal abortions to kill a female foetus.
- ❑ **The Marriage Amendment Act 2001,** amended the Hindu Marriage Act, Special Marriage Act, Parsi Marriage and Divorce Act, the Code of Criminal Procedure providing for speedy disposal of applications for maintenance. This Act further removed the ceiling of maintenance and gave an ample discretion to judiciary to decide the amount of maintenance in each case depending on the status of other spouse.
- ❑ **Protection of Women from Domestic Violation Act 2005:** This Act was amended to discharge the international commitments of the Government of India to the CEDAW Convention. According to this Act, any type of intimidation of women or harassment by family or otherwise, which constitutes a violation to the dignity of women, is punishable and is a criminal offence.

5.5.2 Major Schemes for Women

- ❑ Swadhar Yojna
- ❑ STEP (Support to Training and Employment Programme for Women)
- ❑ Stree Shakti Puraskaar Yojna
- ❑ Short Stay Home For Women and Girls (SSH)
- ❑ UJJAWALA: A Comprehensive Scheme for Prevention of trafficking and Rescue, Rehabilitation and Re-integration of Victims of Trafficking and Commercial Physical Exploitation
- ❑ General Grant-in-Aid Scheme in the field of Women and Child Development.

India has taken an important initiative for the empowerment of women by reserving one-third of all seats for women in urban and local self-government, bringing over one million women at the grassroots level into political decision making.

5.6 Children as a Vulnerable Group

Definition of 'Child' as per the U.N Convention

According to the Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier" (Article 1).

Children are the future of any generation. In their formative years they need special care and protection from adverse influences. Their innocent and feeble frames are vulnerable, susceptible to exploitation. They do not have the physical or mental strength to cater to their own needs.

The United Nations recognized this fact and adopted the Convention on the Rights of the Child in 1989, which states that the "*child, by reason of his physical and mental maturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth*" (United Nations, 1989). India ratified the *Convention on the Rights of the Child (CRC)* on 11 Dec 1992.

Every child has the right to grow to adulthood in health, peace and dignity. Young children are vulnerable and dependent on adults for their basic needs, such as food, health care and education. Children are the most vulnerable group in the world. In comparison to the children of developed countries, the children in developing countries face a number of problems, such as poverty, malnutrition, disabilities and other socio, economic, cultural abuses.



5.6.1 Human Rights and Children

As mentioned, children are the future of any nation. At the same time they are the ones who are in most danger of being ill treated. It must be the primary responsibility of any adult to intercede on behalf of her/his to ensure that the child is nurtured through childhood. The values and ethos of any society will depend entirely on what the children of today have imbibed from their parents or guardians. Their life experiences and the way they have been treated will decide the character they will develop. Thus, in our own interest and the interest of the World at large, it is imperative that we take immediate action on the plight of millions of children who live in abject poverty and distress. They must be given the opportunity to grow up in a healthy environment and be able to enjoy the basic human rights. Under the tutelage of Human Rights, children's rights have been rightly given due attention and importance. A number of agencies are working towards giving impetus to rights of children.

In many societies in the world, especially in the developing countries from tender age, their rights are abused for a variety of reasons. To safeguard this, the Constitution of India bans every kind of discrimination of individuals, including children.

5.6.2 Major Constitutional Provisions relating to the Rights of Children

The major legal provisions that are relating to the rights of children as delineated in the constitution of India are:

Read and Respond

What do you understand by the phrase 'child friendly'? Make a list of facilities you feel should be available in a "child friendly" society.

Article 14 recognizes equal rights.

Article 15(3) It empowers the State to make special provisions for the development of women and children.

Article 15(4) authorizes the state to make special provisions for the advancement any social or backward people of India including the Scheduled Castes and Tribes

Article 17 prohibits untouchability in any manner.

Article 19 confers freedom of speech, expression, to reside any part of the country, and move freely.

Article 21 guarantees free life and liberty, and make it obligatory that free and compulsory education be provided to every child in the age group of six to fourteen years.

Article 23 prohibits traffic in human beings and abolishes bonded labour.

Article 24 bans the employment or recruitment of children below 14 years in any factory or mine or heavy and harmful industries to the health and growth of children.

Apart from these rights, it confers the remedial measures through judiciary for the violation of any of the rights conferred on its citizens through judicial intervention through Articles 32 and 226 of the Constitution. Furthermore, to supplement rights of children, it directs the state to make necessary policy formulations and legal enactments, through the Directive Principles of State Policy.

Read and Reflect

According to the United Nations Convention on the Rights of the Children - that India ratified in 1992 - all children are born with fundamental rights.

- Right to Survival - to life, health, nutrition, name, nationality
- Right to Development - to education, care, leisure, recreation, cultural activities
- Right to Protection - from exploitation, abuse, neglect
- Right to Participation - to expression, information, thought, religion





5.6.3 Provisions of Directive Principles of State Policy dealing with Children

The relevant provisions of Directive Principles of State Policy, which deal with children, are:

Article 39

Clause (e) directs the state to evolve policy formulations not to abuse the tender age of children, and economic incapacity should not adversely result in their employment in any avocation, especially below the age of fourteen years in no circumstances.

Clause (f) of the above article imposes an obligation on the state to provide opportunities and facilities for children to develop in a healthy environment. It further directs the state that life, liberty, and childhood be protected from any kind of exploitation, which includes moral or material negligence.

Article 45 provides for care of early childhood, and compulsory education for all children until the child attains the age of six years.

Article 46 further directs the state to take special efforts to promote the rights and interests of children belonging to social, educationally backward classes. In no way their economic and social status, adversely affect their rights.

Article 47 imposes an obligation to raise the nutritional standards of living and provide easy public access to health facilities.

Article 51 (c) imposes a duty on the state to promote and respect international commitments and obligations. As signatory to number of conventions, covenants and other documents on international human rights law. It is the duty of the state to discharge its obligations in the promotion of children's rights through national legal framework.

Article 51 (A) sub clause (k) imposes the fundamental duty on the parents to provide education to their children or wards between the age group of six to fourteen years compulsorily.

5.6.4 Schemes for Children

- ❑ The Integrated Child Protection Scheme (ICPS)
- ❑ National Awards for Child Welfare
- ❑ National Child Awards for Exceptional Achievements
- ❑ Balika Samriddhi Yojana (BSY)
- ❑ Kishori Shakti Yojana (KSY)
- ❑ Nutrition Programme for Adolescent Girls (NPAG)
- ❑ Early Childhood Education for 3-6 Age Group Children Under the Programme of Univesalisation of Elementary Education.
- ❑ Scheme for Welfare of Working Children in need of Care and Protection
- ❑ Central Adoption Resource Agency (CARA)
- ❑ UJJAWALA: A Comprehensive Scheme for Prevention of Trafficking and Rescue, Rehabilitation and Re-integration of Victims of Trafficking and Commercial Sexual Exploitation
- ❑ General Grant-in-Aid Scheme in the field of Women and Child Development.



5.7 Elderly Persons as a Vulnerable Group

The elderly are those persons who are above the age of 60. Such people usually are retired persons and according to many, are no longer useful. It is often forgotten that these people have worked hard till the present time and now deserve rest as well as respect. Unfortunately, this is not the case and it is found that their rights are ignored by their own children and other family members. Many are tolerated in the homes of their children only because they can be treated as unpaid caretakers of their homes and children. Having served society for the best years of their lives, their rights must be protected in the twilight years of their life. 1st October has been declared as the International Aged People's Day by the UN. It also adopted a number of resolutions to safeguard the interest of the elderly.

Presently there are approximately 737 million elderly persons across the world. By 2050, it may cross 2 billion, which may outnumber the children of the world aged below 14. It is important to protect their rights considering their contributions to each society during their young and middle ages. In the national scenario, the Government of India adopted a National Policy of older persons in 1998. In view of the increasing number of older persons and to protect their rights, the Government of India enacted the **Maintenance and Welfare of Parents and Senior Citizens Act 2007**, in order to extend legal protection to the rights of the elderly person in the country. It has also constituted a National Council for elderly persons to address various aspects concerning the rights of elderly persons.

Read and Reflect

When was it last that you sat with an elderly person? Was the purpose to gain an insight into their life and their experience met?

Discuss and share with the class.

5.7.1 Rights for Elderly Persons

Often elderly people after a certain age become less active and make plans to retire from active employment and their previously active life. They feel they can rely on their children to look after them and choose to live with the younger generation. This naturally leads to lesser income and very soon they find themselves at the receiving end of many a barbed comments. They become less visible in the mainstream society, sometimes they tend to lose the agility as well as their mental capability. They thus become a part of the vulnerable group of society where in they become dependant on others for their financial and physical well being. In the year 1999 the United Nations promulgated the '*Principles for the Older Persons*' which highlighted the fact that preeminence be given to the plight of the the elderly. They delineated the five main areas of concern to be:

Independence: The older persons must have avenues to fulfil their basic needs of food, clothing and shelter as also water and health care. They should be given the right to work and be able to partake in the decision of retirement. They must be given the choice of living at home for as long as they want.

Participation: With their repertoire of skills and wide experience older persons can prove to be a blessing in society. They must be encouraged to volunteer for posts that are suitable to their stature and interests. They should remain in the mainstream society and have a chance to voice their opinions in matters concerning their well-being and quality of life. They should be given the opportunity to meet people of their own age group.

Care: Government schemes which could provide older persons with independence, security and care should be introduced and maintained. Families as well as communities as a whole should be made to understand the need to look after these older persons who have looked after them in their childhood and youth.

Self-fulfilment: Older persons should have the liberty to lead as full a life as they had previously





been leading if they still wish to and still be able to pursue their interests though maybe with lesser intensity. They must be given the opportunity to partake in recreational, cultural and the devotional facilities that are available to everyone else.

Dignity: Old age and its related challenges are present everywhere in the world. It is an inevitable fact that all must pass through this stage. Yet exploitation, injustice and derision are common maladies that many of the older persons have to live with. Life expectancy is increasing and with this there are going to be many more older persons in society at a given time. We must have a society in which the older persons can live with self respect and safety from physical as well as mental tortures.

5.7.2 The Constitution of India and Older Persons

The 24th Entry in Schedule IV of The Constitution of India includes Old Age Pensions. Further Item No. 9 of the State List and Item No. 20, 23 and 24 of the Concurrent List deals with Old Age Pensions, Social Security and Social Insurance.

As also the Article 41 of the Directive Principle of the State Policy which is particularly pertinent to the older persons as it deals with Old Age Social security.

According to the Article 41 of the Directive Principle of the State Policy *"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 case of undeserved"*.

5.7.3 Schemes for the Older Persons

National Social Assistance Programme (NSAP)

Enacted on 15th August, 1995, *The National Social Assistance Programme (NSAP)* established a mechanism to help the poor in the event of death of the earning member of the family, pregnancy and old age. This National Policy came as a noteworthy advancement towards the alleviation of the plight of the Older Persons. One of the three components of the policy concerned itself with the *The National Old Age Pension Scheme (NOAPS)*. This Scheme along with the other two components saw a modification in 1998 based on the feedback received after its implementation.



Other Schemes:

Technology Interventions for Elderly (TIE)	Concessions and Other Incentives
Programme for Older Persons	Insurance Policies and Benefits
Annapurna Scheme	Mediclaime/Health Insurance
Free Legal Aids	National Policy on Older Person
Rebates	Health Facilities



5.8 Conclusion

It can indeed be said that Human Rights are most certainly inalienable. They belong to each one of us, not because of our status or capability but merely because of the fact that we are human.

A brief overview of the rights of various vulnerable groups show us clearly that each group has a set of problems that do not permit them to enjoy the basic human rights which have been guaranteed to them both by International and National Laws. The Governments as well as we individuals do have a role to play in ensuring that their rights are protected without any discrimination that is based on sex, race, language, religion, and caste.

The right to equality, the six cardinal freedoms (right to speech, expression, to assemble without arms, to move freely, to reside in a place of choice, to form unions and associations, right to practice a profession of one's choice) and the right to life are the foundations of Our Constitution. They have been acknowledged to be fundamental to the framework of the Constitution and cannot be annihilated.

These rights have been guaranteed to all without exception which naturally include the vulnerable groups. Safeguards have been executed through legislative and executive measures to ensure the preservation of their rights and well being.

There are clear cut and evolved as well as legalized measures which deter discrimination of any kind. India is working on all fronts to build an equitable society which will be just and free from prejudices.

Unit End Reflections

Comprehension Questions

Very Short Answers

1. What do you understand by the term disability?
2. List the disabilities that are included in the PWD Act 1995.
3. Name three legislations relevant to the rights of disabled other than the PWD Act.
4. Name the act that encompasses Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities?
5. On which aspect does the National Policy for Person with Disability focus upon?
6. Name the act that accords equal opportunity to the disabled.
7. List the government organizations working in the field of disability.

Long Answers

1. Differentiate between disability, impairment and handicap. Explain with the help of examples.
2. Define gender discrimination according to CEDAW.
3. How does the Constitution of India protect the rights of women in our country?
4. How does UN Convention define a child and what are the fundamental rights of a child?
5. What are the provisions of Directive Principles of State Policy dealing with child?
6. Name some of the major schemes adopted in India for the welfare of the children and write about any two of them?
7. What are the major threats which an elderly person faces in our society?
8. What is National Social Assistance Programme?
9. How is the UN convention of Rights of people with disability helpful in India?
10. List the government organizations working in the field of disability.
11. What is the role of government in the mobilization of resources for the disabled?





12. Write the measures to avoid discrimination against disabled.
13. What is Rehabilitation Council of India? When did it come into existence? Write the aims of RCI.
14. What do the Juvenile Justice Care and Protection of Children Act 2000 defines?
15. What are the salient features of National Policy for Person with Disability (NPPD)?

Read and Reflect

Case Study

Situation 1. Imagine a class full of students from various ethnic and cultural backgrounds. They study, play, go for picnics and excursions together. They also participate together in-group activities and are used to each other. Now imagine a new child from another state gets admission in the same class. He is not able to speak or understand Hindi. Though the students speak in English, very often they break into Hindi amongst their group of friends. The new student feels very left out and is not able to find a group that she can belong to. You as a student of the class feel that you should do something to make this new student fit in. When you discuss this with your mother she explains to you that this new classmate is in a vulnerable state of loneliness because he has recently shifted from her hometown. *Suggest ways to make this student feel better.*

Situation 2. A visually impaired student joins your class. The teacher asks the class monitor to give her a seat. The monitor takes her to the rear of the classroom and seats her. The child is not able to copy from the board properly from that far. Also the lighting in the classroom is not proper and very bright. As a result she is not able to finish her class assignment within the stipulated time and is always lagging behind.

Furthermore while coming out of the classroom she trips and falls since she is not able to manoeuvre through the bags placed on the floor. She is not able to go for her computer classes as it is in the basement and the lighting is poor. She is also not able to do the hands on activities in the laboratory since she cannot handle equipment in the lab.

Some of the students in the class make fun of her and call her names. The child is now an underachiever, depressed and on the verge of withdrawing herself from the school.

A group of students feel sorry for her and think that something should be done for her but they do not know what and how. They try to search internet to learn about disabilities and the challenges they face. They finally decide to meet the school Principal and tell her about their concerns.

Can you write out 10 suggestions which they may have discussed with the Principal?

Situation 3. Think of a scenario where the child has to withdraw from school because the infrastructure is not disable friendly, or a person is denied his/her fundamental right to go from one place to another because the airline authority refuses to take him in the plane because of his physical impairment. These are the direct violations of fundamental rights given to a person by the Constitution of India. Thus, to give a person with disability the right to live his life with dignity, it is important to understand the meaning of disability and the special rights that have been provided to them by the Government.

What are the regulations listed by Government of India provisioning support to disabled people in public buildings and transport?

Experience it to Empathize

What type of difficulties would you face if you were to

- ☐ Climb up the staircase with one leg tied up.
- ☐ Walk around the class blindfolded with the help of a stick and without the help of a stick.
- ☐ Perform few simple tasks like writing, drawing, holding, catching etc. with your thumb tied to your forefinger.
- ☐ Wear glasses with a circular paper stuck in the center. Now walk from one classroom to another and observe the surroundings.



CHAPTER 6: RIGHT TO FOOD

Human rights are not synonymous with political rights and civil liberties. The modern concept of rights incorporates the basic right to a fulfilled life that allows individuals families and communities to realize their full potential and capabilities. Thus economic rights are an integral component of the general rubric of rights. Moreover, it is not always possible or even desirable to separate the development of a nation into economic, political and social development. The present chapter and the next move in the same direction and discuss the right to the basic needs like food and shelter.

The right to an adequate standard of living requires, that each one of us can enjoy the necessary subsistence at least a minimum level: adequate food and nutrition, housing, clothing and the essential care when required in a dignified manner. None should be forced to live in conditions where the only way to satisfy needs is by demeaning or depriving themselves of their basic freedoms, and living through begging or forced labour. In material terms it can be said that an adequate standard of living implies living above the poverty line of the society concerned.

Hunger

Hunger precisely is the strong desire craving for food which at times causes exhaustion.

852 million people lead a life where they do not get adequate food all their life. This is due to their Social and Economic lifestyle.

Many die because of hunger and starvation, approximately 5 million per year. Added to this every five seconds, a child under ten years of age die because of malnutrition or hunger.

Out of these 852 million poor persons suffering from hunger and malnutrition, 50% are small farmers, 20% are landless rural nomadic herders, or small scale fisherman and 10% live in urban poverty, hardly 5% are affected by food emergency situation arising from armed conflicts, by exceptional climatic conditions mainly drought or floods or by violent economic transitions. It is overwhelming and heart rending to realise that the causes of under

nourishment and of death from hunger and malnutrition are due to social injustice, political and economic exclusion and discrimination. They cannot be attributed only to war or natural catastrophes.

Hundred of millions of undernourished persons suffer from political and social injustice, during which their right to food is grossly violated.

Many women, men and children affected by chronic undernourishment suffer from 'extreme hunger', which according to the *UN Food and Agriculture Organization (FAO)*, means their daily ratio of calories is well below the minimum that is essentially required for survival. Many people die every day basically because of starvation. Malnutrition, also called as 'hidden hunger', refers to inadequate intake of calories, proteins or nutrients.

Read and Reflect

Jevan opened his eyes to the blackness of early dawn. The cool damp air did nothing to revitalise his senses, but rather highlighted the distressing pain in the pit of his stomach. He had run out of food yesterday. He hadn't realized it until he came home from work very late in the evening. He had planned going out looking for food, but had decided to go to bed instead, telling himself that he was strong enough to make it through one night of hunger. However, he had not expected waking at four o'clock in the morning unbearably hungry.

Why did Jevan wake up early at dawn?

Why couldn't he feel energized and fresh?

enjoying a healthy diet is all about

getting the balance right



There are no healthy or unhealthy foods - only healthy or unhealthy diets



Thus malnutrition necessarily encompasses undernourishment - it might be that a person receives enough calories but not enough nutrients.

Malnutrition is quieter than famine as it does not often attract the attention of the media. It has tragic implications for those suffering from this disease. Malnutrition heightens vulnerability to other illnesses and almost always has serious physical and mental effects such as lack of brain cell development and inadequate growth. Serious malnutrition can also be hereditary, as many malnourished mothers give birth to malnourished children. The right to food is a human, legal and a clearly defined right which gives rise to obligations of states to reduce both chronic undernourishment and malnutrition.

A well-balanced and nutritive diet is important for maintaining a good health and healing of diseases. A balanced diet means consuming food that has adequate amount of all the essential nutrients required for healthy growth and activity. It is very important for the human body to get the required amount of carbohydrates, proteins, fats and other nutrients daily. It is essential to choose food from all food groups to get the required amount of nutrients. The food pyramid gives us an idea about the balanced diet that is necessary for all of us.

Read and Reflect

Food plays a very important role in maintaining proper health and prevention as well as cure of diseases.

Share your thoughts through an essay, report, poem or drawing.

6.1 What is Right to Food?

In response to the atrocities of World War II, UN General Assembly adopted 'The Universal Declaration of Human Right'. The UDHR Member nations were asked to promote human, civil, economic and social rights. These were considered to be foundation of justice, freedom and peace in the world.

A report titled, 'The Right to Food' as a Human Right', written in 1987, was the starting point of investigating the rights mentioned in the ICESCR. The importance of Right to Food was reconfirmed ten years later in 1996 at the World Food Summit. It became the focal point of discussion and the High Commissioner for Human Rights was requested to define its legal content.

The current definition of Right to Food is:

"The right to food means that every man, woman and child alone and in community with others must have physical and economic access at all times to adequate food using a resource base appropriate for its procurement in ways consistent with human dignity. The right to adequate food is a distinct part of the right to an adequate standard of living."

Therefore it can be said that the right to food is a human right which gives the right to the people to feed themselves with dignity, that sufficient food is available and that the food satisfies their dietary needs. This right also provides for human beings to be free from hunger, malnutrition and food security. However, right to food does not imply that it is obligatory for the governments' to provide free food to all or that it is a right to be fed. If a person is deprived of food due to reasons beyond their control, then it becomes the duty of the government to provide food.

Dimensions

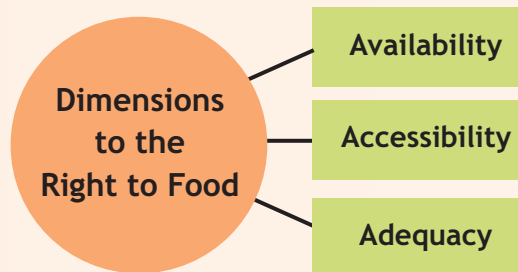
Three dimensions to the right to food have been defined:

Availability (of food) refers to feeding oneself directly from the land either producing it or from other natural resources. It could even be procured through a well managed distribution processing



and market systems which can transfer food from the production site to where it is needed as per the demand.

Accessibility implies that economic and physical access to food is to be guaranteed. Economic access means that food should be affordable for an adequate diet without compromising other basic needs. Physical access means that those who are physically challenged, such as sick, children disabled. Besides this the elderly should also have access to food.



Adequacy implies that every individual, according to their age, living conditions, health occupation, sex, culture and religion, must get food to fulfill their dietary needs. The food must be safe and protective measures by both public and private agencies must be taken to prevent contamination of food stuffs. Care must also be taken to identify and destroy naturally occurring toxins.

Any kind discrimination in access to food, as well as to means and entitlements for obtaining it, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status a violation of the right to food.

6.1.1 Common Misconceptions about the Right to Food

- (i) **The right to food is not a right to be fed:** Many people think that the right to food means that the Government must to provide free and nutritious food to anyone who needs it. This is a misconception. The right to food is not a right to be fed. Individuals are expected to meet their own needs, through their own efforts, by using their own resources. An individual must be provided with an environment which would allow him or her either to produce food or to buy it. An individual would require land, seeds fertilizers, water and other resources to produce food. Whereas for buying food, the basic requirement, is capital and access to for the fulfillment of the right to food, the States must provide an adequate environment to produce or procure food for themselves and their family. Besides this it is also necessary that during an armed conflict, natural disaster or some other calamity, the state must provide food directly.
- (ii) **The Right to food is not related to food security and food sovereignty:** According to the FAO, food security exists *"when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life."* It is a pre-condition for the full enjoyment of the right to food. However, the concept of food security itself is not a legal concept and does not impose any kind of obligations on the State.

Food sovereignty is an emerging concept according to which people define their own food and own model of food production, such as in the case of agriculture and fisheries. It is one of the main factors which determine the protection of domestic food production and regulation of trade in order to achieve sustainable development objectives. This in turn it determines the extent to which they will become self-reliant. Food sovereignty is suggested as a concept that promotes and provides an model for agriculture, trade policies, right to safe and nutritious food and production of healthy and ecologically sustainable food. The right to food sovereignty has been recognized under some national laws. However, it has not been recognized internationally.





- (iii) **The Right to food is different from the Right to safe food:** The right food encompasses much more than the right to safe food. The right to adequate food is sometimes misunderstood as a right that ensures a proper standard for the food that is available on the market i.e. ensures that the food is safe. But the right to food ensures much more than this. It also ensures the accessibility and availability of adequate food. Thus adequacy refers to quantity, quality and appropriateness, taking into account cultural aspect as well as the physiology of the individual.
- (iv) **The denial of the Right to food is not the result of lack of availability of food in the world:** One might think that people are denied their right to food because there is not enough food around the world. However, according to FAO, the world produces enough food to feed its entire population. The basic cause of hunger and malnutrition is not a lack of food but the lack of accessibility to available food. Accessibility to food in developing countries and economically developed countries is determined by factors like poverty, social exclusion and discrimination. This often cripples people's access to food. Thus it is the duty of the States to make an effort to enable a sustainable production of food, to ensure the availability of food for future generations while considering factors such as population growth, impact of possible climatic change and the availability of natural resources.

6.1.2 Relationship between Right to Food and other Human Rights

The right to adequate food has strong links with other human rights. Violating this right would be effecting other rights because it is apart of the right to an adequate standard of living. Adequate standard of living is a result of a transfer or something earned in return for economic activities, like labour wages, self-employment providing goods, services or means of production. The right to an adequate standard of living can incorporated through welfare transfers, through the right to earn one's living or through the right to social security. Some examples of this correlation and interdependency are:

The Right to Health: Nutrition is required for good health and to have a sound health, nutritious food is required. If a pregnant or breast feeding woman does not get nutritious food, both she and her baby can be malnourished. A child suffering from diarrhea may have access to food but is denied medical treatment, will definitely not get the required nutrition.

The Right to Life: According to Article 3, *'The right to life is a moral principle based on the belief that a human being has the right to live and should not to be unjustly killed by another human being.'* Therefore when people are not able to make provisions for food for themselves and face the risk of death by starvation, malnutrition or illness because of unavailability of food their right to life would be at a risk.

The Right to Water: Right to food cannot be thought of without the right to water. People should have access to safe drinking water for personal and domestic uses and personal as well as household hygiene.

The Right to Adequate Housing: When a house lacks basic amenities, such as space for cooking or storing food, the right to adequate food of its residents may be challenged. Also when the cost of housing is very high, people may have to cut down on their food bill.

The Right to Education: Hunger and malnutrition harm children's learning abilities and may force them to drop out of school and work instead depriving them from their right to education. Moreover, an individual needs to know how to maintain a nutritious diet and have the skills as well as capacity to produce or obtain food as a livelihood. Thus access to education including vocational education, is essential for the enjoyment of the right to food.

The Right to Work: For many of the most vulnerable groups, the right to food or the right to feed



themselves, meaning access for a community or a family to productive resources and work is essential. Most people realize their right to food by realizing their right to work.

The Right to Social Security: Access to food for persons who are unable to participate in economic life and to earn their living is extremely difficult. Social security and minimum wages are set taking in account the cost of basic foodstuffs in the market. Freedom of association and the right to take part in public affairs are also important, particularly for the marginalized and excluded group of people, to make their voices heard and their views reflected in public policies regarding food, thereby, protecting this right to food.

The Right to Information: To know about food and nutrition, markets and the allocation of resources is very important for an individual to enjoy the right to food. It strengthens people's participation and choice. Protecting and promoting the right to seek receive and impart information thus facilitate the enjoyment of the right to food.

Freedom from Child Labour: Children and adolescents suffering from hunger and malnutrition are more often in danger of being recruited into the worst forms of child labour to survive. Realizing their right to food is important to protect them from such a situation.

A Community's Right to Feed Itself: Adequate food is a culture. Cultural and minority rights related to food have to be respected, protected and fulfilled. In most cases this right requires a community to feed itself. This is especially applicable for indigenous people. However, a general indicator of societies offering a high quality of life is that they value food as a part of their culture and feed themselves. Situations of severe hunger and malnutrition arise because people lack access to food. The right to feed oneself very often affects primarily a community than an individual. In such an affected community, women and girls suffer most from deprivation of food. It is therefore necessary to see the right to food, and in particular the right to feed oneself, as a right of communities rather than primarily as a right of individuals.

Read and Respond

Gather information about any two of these conventions or charters. Share and discuss the important highlights with your class.

6.2 Right to Food: The State's Obligations and other Responsibilities

States have the primary obligation to protect and promote human rights. The obligations are well established under international law. States which have signed the International Covenant on Economic, Social and Cultural Rights (ICESCR) have agreed to take steps to work for full realization of right to food. They also accept the role of international cooperation and assistance in this context. Signatories to the Right to Food guidelines are committed to implementing the right to food at a national level. States' obligations are of three types: The obligation to respect, protect and to fulfill.

- i. **Respect** implies that states must never prevent people from having access to food
- ii. **Protect** means that states should take measures to ensure that organizations or individuals do not deprive individuals of their access to adequate food.
- iii. **Fulfill** demands that governments must get engaged in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Under circumstances when the situation is beyond one's control and people are unable to enjoy their right to food it becomes the obligation of the state to provide food directly. The ICESCR also recognizes that the right to freedom from hunger requires international cooperation, and relates to matters of production, the agriculture and global supply.

At national level national strategies to be implemented for the realization of the right to food should fulfill four functions:





1. **Define** that the obligations related to the right to adequate food are the obligations of government or those of private actors;
2. **Improve** the coordination between the different branches of government whose activities and programs may have an impact on the realization of the right to food;
3. **Set targets** define the time frame within which particular objectives should be achieved
4. Provide for a mechanism to ensure that the impact of new legislative initiatives or policies are working the right way.

6.2.1 Responsibilities with International Extent

The primary responsibility of a state is to protect, respect and fulfill the right to food of people within their boundaries. In a globalized world, causes of food insecurity have international dimensions which are not in the control of one state. For example, prices of food depend on the international market, climate change which affects the production of food. Coordinated efforts among States are required to counteract this. Under the International Covenant on Economic, Social and Cultural Rights State parties are allowed to take steps, including international cooperation, to improve ways of production, conservation and distribution of food and to ensure an equal distribution of world food supplies. International cooperation is not a substitute for domestic obligations. If a State is notable to ensure and enable its people their Right to Food on its own, it should actively seek the necessary help from other States or coordinate as necessary with other States to solve obstacles.

6.2.2 National Legal Recognition

The right to food is usually recognized as part of the right to an adequate standard of living. The constitutional law of most democratic countries acknowledges that the state must give a guarantee for secure and adequate living conditions for everybody. When it comes to the role of the right to an adequate standard living and the right to food in domestic jurisprudence the picture changes somewhat. When it comes to legally guaranteed access to food for poor, the situation is less persuasive. In many countries provisions have been made to provide a lump sum payment, which should make sure that everybody has access to adequate food. This does not, necessarily give a legal guarantee to be free from hunger.

6.2.3 Assistance, protection and service provided by other national and international agencies and organizations

National Treaties related to the human right to food and water are widely accepted; but few states specify these in their own constitutions. Many countries have legislation and national programmes but few have established any clear right to adequate food. For the safety of the food that people are consuming, Governments have set up agencies responsible for adopting and monitoring food standards and quality control. In the United States, for example, it is required that people receive an annual report informing them of all substances that are found in their tap water. Governments fulfill their obligation of providing food through programmes such as food stamps, midday meal schemes, emergency food assistance etc. Eligibility for such programmes depend on low family income. In some cases funding goes to public and private agencies, nonprofit and organizations that are working to fight hunger on a state or community level To receive funds these agencies need to demonstrate strong commitment as well as evidence of a successful aid programme. The NGO, Food First Information and Action Network works closely with the United Nations High Commissioner for Human Rights. This organization receives and researches right to food violation claims and intervene in cases of violations of the right to food. It ensures that the violation is rectified. The leading organizations which are committed to the right to access to food and water are:



1. **World Health Organization:** The World Health Organization (WHO) was established in 1948 as a branch of the UN specifically to promote good health. Its objective is to help people attain the highest possible level of health.



2. **Food and Agricultural Organization of the United Nations:** The Food and Agriculture Organization (FAO) was founded in 1945. This organization was established to improve the nutrition standards and the standard of living globally

3. **United Nations Children's Fund:** The United Nations Children's Fund (UNICEF) is the UN agency which protects the rights of the child. UNICEF works to improve child nutrition, water quality, environment and sanitation as well as emergency care to women and children.



4. **World Food Programme:** The World Food Program (WFP) was established in 1963. This UN agency provides food relief to victims of natural disasters.

5. **International Fund for Agricultural Development:** The International Fund for Agricultural Development (IFAD), a branch of the UN was established in IFAD was established to provide the means to implement rural agricultural development. The organization provides grants to help small, struggling agriculturists stabilize, develop and help them.



IFAD
INTERNATIONAL
FUND FOR
AGRICULTURAL
DEVELOPMENT

6. **International Committee of the Red Cross:** This is an independent and neutral entity of the International Committee of the Red Cross (ICRC). This organization provides protection and assistance to civilians, medical assistance, food aid and restoration of family links between persons separated by war, keep an eye on the handling of prisoners of war etc. and mediate on their own behalf with the apprehending authorities separated by war.



7. **CARE International:** It is a non-governmental organization. The mission of this organization is to reduce world poverty. It helps families to increase food production and ensures proper management of resources, teaches techniques and practices that help prevent malnutrition, provide food in emergency situations and build and maintain clean water and sanitation systems.

8. **Save the Children:** This is also a non-government organization that tries to find out the root causes of food insecurity with an aim to prevent hunger and malnutrition. The organization does this through increasing the agricultural production, education and distribution of food in emergencies.



**Save the
Children**

Several mechanisms on implementation of the Right to Food have been suggested by the United Nations. Article 11 which suggests the mechanisms accepts that the methods of implementing the Right to Adequate Food will vary from one state to another. Every state must choose their ways and means taking all necessary steps to ensure that everyone is free from hunger and are able to enjoy the right to food. The article emphasizes that the member states should comply with the principles of accountability, transparency, participation of people, decentralization, legislative also asks the States to identify and address critical issues related to the food system, including the food





production and processing, food storage, retail distribution, marketing and its consumption. Discrimination in access to food shops and retail network, or to resources for growing food should be prevented by the states. As part of their obligations to protect people's resource base for food, States should ensure that the activities of the private business sector and civil society are in accordance with the right to food. The Article also states that whenever a State faces severe limitation of resources due to economic adjustment, economic recession, climatic conditions or other factors steps should be taken so that the right to adequate food is particularly fulfilled for population groups and individuals who are weak helpless and defenseless.

6.3 Methods of Implementing the Right to Food

Methods of implementing the right to adequate food will vary from country to country. It will be left to the discretion of each state to choose the ways and means. All the member states that have committed to realize the right to food must take immediate steps to do as soon as possible.

6.3.1 Implementation as National Strategy

The implementation of the right to adequate food will require the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles. The criteria's are

- (a) It should be based on a systematic identification of policy measures and activities derived from the normative content of the right to adequate food and the corresponding;
- (b) Its formulation and implementation should comply with human rights principles, such as accountability, transparency and participation;
- (c) It should clearly allocate responsibility for implementing then necessary measures and lay down a precise time frame;
- (d) It should give particular attention to preventing and eliminating discrimination in access to food or resources for food and to the needs of the marginalized population groups. This requires a systematic analysis of disaggregated data on the food insecurity, vulnerability and nutritional status of different groups in society;
- (e) It should address all aspects of the food system including production, processing, distribution, marketing and consumption, as well as other relevant areas, such as health, water, sanitation education, employment, social security, and access to information;
- (f) It should identify ensure that activities of non-State actors are in conformity with the right to food;
- (g) It should define institutional mechanisms including the coordination between relevant ministries and between the national and sub national levels of government; and
- (h) It should also identify the resources available to meet the objectives and the most cost effective way of using them, including in times of severe resource constraints.

6.4 Right to Food in India

One of the most basic human rights is the right to food which is closely linked to the right to life. No government can be allowed to deny this right to people. Human Rights are indivisible and denial of one right affects the enjoyment of other rights. For any civilized society the right to life implies the right to food, water, decent environment, education, medical care and shelter. The State has a constitutional obligation to ensure a dignified life to all individuals.

Indian history had been ridden with famine, drought and food shortages before 1947. Records show that between 1770 and 1880, 27 food scarcities and famines took place in our country. Since 1850 almost 20 famines had hit our country taking away twenty million lives. This loss was mainly due to



the colonial policies. The policies framed by the colonial government aimed solely to gain maximum profit. They encouraged farmers to grow crops which could be exported. The boom in this export trade flourished and consequently there was rise in prices. This forced the farmers to grow cash crops like cotton, indigo, poppy and sugarcane. Thus the production of food grain got adversely affected. Efforts made by the colonial India to improve agriculture were in fact directly linked to the needs of British industries.

India's foreign trade showed the same colonial pattern with exports mainly comprising food grain and cotton, jute, oilseeds, opium and indigo in the first half of the 20th century. Imports consisted mainly of consumer goods. Since the trade situation was such, the cultivator's preference for commercial crops continued. The condition is the same even now. The best lands available during the pre-independence years were used for the cultivation of commercial crops. The cultivation of food grains was relocated, to inferior lands as a result of which the produce was affected. There was a steady decline in food grain output till the Second World War. Per capita food availability from domestic production declined too. The big gap between minimum requirement and supply continued throughout the Post-War Period. Till the 1960s, Indian agriculture was not sufficiently able to meet domestic requirements and the country had to rely on food grain imports.

In 1950, three years after independence, India adopted a progressive Constitution which aimed at securing for all its citizens social, economic and political justice, equality and dignity. The Constitution prohibited discrimination and recognized all human rights.

Civil and Political Rights are recognized as directly justifiable fundamental rights and economic, social and cultural rights are defined as directive principles of State policy.

Article 47 of our Constitution clearly states that it is the duty of the state to improve the level of nutrition, the standard of living and to improve public health.

6.5 Policies and Programmes for Realising Right to Food

India has still many international obligations so as to fulfill the right to food with respect to children as well as adults. In 1986, India became a part of the International Covenant on Economic, Social and Cultural rights, which is the most important human rights instrument for the right to food. The Government of India has also committed itself to the Convention on the Rights of the Child in 1990. This Convention proclaimed that every child had the right to adequate food and nutrition. The World community has finally committed itself to eliminate the hunger of children with the ratification of this convention. India was also part of the World Food Summit held at Rome in 1996 and has joined the world community to eliminate the hunger of children with the approval of this convention.

Development of Right to Food in India

Article 47 of the Indian Constitution endorses the Right to Food by stating that "It is the duty of the State to raise the level of nutrition and the standard of living and to improve public health".

India ranks 63 on the Global Hunger Index making a marginal improvement since 2012. The 2013 GHI says that in India the percentage of undernourished has declined from about 21% of the population to 17.5%, similarly the rate of underweight children declined from 43.5% to about 40% and under-five mortality declined from 7.5% to about 6%. All this put together means that the hunger index for India declined from 24 to 21 between 2003-07 and 2008-12.

Though the above data shows improvement, India still continues in the "Alarming" category of countries classified by severity of hunger.

In 2001, India's Constitutional Court recognized the right to food, as an enforceable right. In 2005,





India adopted its Mahatma Gandhi National Rural Employment Guarantee Act and the Right to Information Act. In 2009, India developed a National Food Security Act. In 2011, the National Food Security Act 2011, popularly known as Right to Food Bill was proposed. The Bill ensures that 50% of the urban population and 75% of the rural population would be provided with subsidized food. The proposed legislation would provide **seven** kilograms of rice, wheat and coarse grain per person per month at very low prices to "priority households". The current Public Distribution System, a government-run ration and fair price shops would undertake the responsibility of the distribution.

In 2013, National Food Security Bill, 2013 was passed by the Indian Parliament.

Programmes to Improve Accessibility and Adequacy of Food and Nutrition in India

In an effort to raise the level of nutrition, standard of living and public health, the state has developed the following schemes;

1. **Antyodaya Anna Yojna:** under this scheme arrangements are made to distribute 35 kg of rice and wheat per family which is classified as the poorest of the poor. A higher price subsidy on rice and wheat is provided which is lower than the BPL rates.
2. **Annapurna Scheme:** 10 kg of wheat and rice per month is provided to the indigent senior citizen.

Schemes for Food in Work Places

BPL (Below Poverty Line) Households having BPL ration cards are issued 35 kgs of rice monthly at the rate of ₹ 6.5 per kg. The scheme targets the really poor and vulnerable sections of the society such as landless laborers, marginal farmers and wage earners of the informal sections of the economy. The identification of BPL families is the preview of the state government and identification is made as per the estimates adopted by the central Government and distinctive ration cards issued. The village councils/ local councils finalize the list drawn up by the designated authorities.

APL (Above Poverty Line) As the Department of Food, Civil Supplies & Consumer Affairs is entrusted with ensuring that essential commodities are under the Public Distribution System reach all citizens so as to ensure food security regardless of the individual's position in economically or otherwise, all those households who are not covered under BPL or AAY are issued ration cards nonetheless. APL ration card holders are issued 35 Kgs of rice at ₹ 9.50 per Kg. This is to make the basic necessities of life within the grasp of all the citizens.

1. **Jawahar Samriddhi Yojna:** 1 kg of rice or wheat per workday is to be provided. Besides this provision for employment for people below poverty line residing in rural areas is made during lean agricultural season.
2. **Employment Assurance Scheme:** This scheme provides 1 kg of rice or wheat per work day. During lean agricultural season 100 days employment is given to 2 persons per family.
3. **Swarnjayanti Gram Swarozgar Yojana:** Up to 5 kg grains per person per day is to be provided. Provisions of employment at minimum wage is paid partly.
4. **Mid-Day Meals Scheme:** Under this scheme 3 kg rice or wheat per child per month for 10 months or cooked meals of food grains to primary school children (100 gm per day) for 200 days is made available.
 - a) **Nutrition Schemes:** This scheme provides 300 calories with ready to eat food plus 8 to 10 gm. supplements of protein for 300 days for children upto the age of 6 years. Under this scheme monitoring and promotion of Supplementary feeding and promotion of health education is also done.



- b) **Integrated Child for Malnourished Children:** Girls between the age of 3 to 6 years will be provided 600gm calories +20 gm protein for 300 days. Development services, immunization schemes and pre-school education to adult women and adolescent is also managed under this policy.
 - c) **Integrated Nutrition for Adolescent girls:** 500 calories + 20-25 gm protein for 300 days. Health check-ups, referrals and health generating programs are also a part of this scheme for adolescent girls.
 - d) **Pregnant and Nursing Mothers:** Such mothers to be provided with 500 calories + 20-25 gm protein for 300 days.
5. **Pradhan Mantri Gramodaya Yojna:** For children of grade I and II, 300 calories and 8-10 gm of protein and double the amount for children of grade III and IV is to be provided.
 6. **Balwadi Nutrition Program:** This scheme is to promote social and emotional development and provide 300 calories + 12 -15 gm protein for 270 days for children of 3-5 years.
 7. **Day Care Centers:** Under this scheme provision for supplying 300 calories + 12 -15 gm protein for 270 days and day care services to children below 5 years to low income families, supplementary nutrition, health care, medical checkup and immunization is made.

The political and economical patterns are responsible for ensuring lack of food, inspite of all the Government Schemes and Programmes which have been formulated to feed the poor.

Read and Reflect

The Supreme Court Case

On April 16, 2001, the PUCL submitted a "writ petition" to the Supreme Court of India asking three major questions:

- A. Are starvation deaths a natural phenomenon while there is a surplus stock of food grains in the Government godown? Does the right to life mean that people who are starving and who are too poor to buy food grains ought to be given food grains free of cost by the State from the surplus stock lying with the State, particularly when it is reported that a large part of it is lying unused and rotting?
- B. Does not the right to life under Article 21 of the Constitution of India include the right to food?
- C. Does not the right to food, which has been upheld by the Hon'ble Court, imply that the State has a duty to provide food especially in situations of drought, to people who are drought affected and are not in a position to purchase food?

Article 21 of the constitution, entitled "Protection of life and personal liberty", says, in its entirety, "No person shall be deprived of his life or personal liberty except according to procedure established by law".

As a result of the ongoing proceedings, the Supreme Court has been issuing orders calling upon government agencies to identify the needy within their jurisdictions, and to assure that they receive adequate food. For example, on July 23, 2001, the court said:

In our opinion, what is of utmost importance is to see that food is provided to the aged, infirm, disabled, destitute women, destitute men who are in danger of starvation, pregnant and lactating women and destitute children, especially in cases where they or members of their family do not have sufficient funds to provide food for them. In case of famine, there may be shortage of food, but here the situation is that amongst plenty there is scarcity. Plenty of food is available, but distribution of the same amongst the very poor and the destitute is scarce and





non-existent leading to mal-nourishment, starvation and other related problems.

On September 3, 2001, the court directed that 16 states and union territories that had not identified families below the poverty line must do so within two weeks, so that those families could be provided with food assistance. After two weeks, on September 17, 2001, the court reprimanded them, saying, "we are not satisfied that any such exercise in the right earnestness has been undertaken." They were then given another three weeks to comply with the order. The court also reminded the states that "certain schemes of the Central Government are mentioned which are required to be implemented by State Governments":

These schemes are: Employment Assurance Scheme which may have been replaced by a Sampurna Gramin Yojana, Mid-day Meal Scheme, Integrated Child Development Scheme, National Benefit Maternity Scheme for BPL pregnant women, National Old Age Pension Scheme for destitute persons of over 65 years, Annapurna Scheme, Antyodaya Anna Yojana, National Family Benefit Scheme and Public Distribution Scheme for BPL & APL families. The Chief Secretaries of all the States & the Union Territories were directed to report to the Cabinet Secretary, with a copy to the learned Attorney General, within three weeks from the day with regard to the implementation of all or any of the Schemes with or without any modification and if all or any of the Schemes had not been implemented then the reasons for the same.

All state governments were directed to take their *"entire allotment of food grains from the Central Government under the various Schemes and disburse the same in accordance with the Schemes"*. Further, the court required that *"the Food for Work Programme in the scarcity areas should also be implemented by the various States to the extent possible"*.

On November 28, 2001, the court issued directions to eight of the major schemes, calling on them to identify the needy and to provide them with grain and other services by early 2002. For example, for the Targeted Public Distribution Scheme, *"The States are directed to complete the identification of BPL (below poverty level) families, issuing of cards, and commencement of distribution of 25 kgs. grain per family per month latest by 1st January, 2002"*.

6.6 The National Food Security Bill, 2013

India has the largest number of hungry people in the world; despite various programmes the number of undernourished people today is same as 20 years ago. The problem is serious because chronic under-nutrition in children adversely affects them mental and physical development. Additionally, under-nutrition greatly increases the vulnerability towards infections and diseases, including measles and malaria. This, in turn, adds to mortality rate, particularly of young children. Thus, malnutrition is at the heart of a host of problems with long term consequences and perpetuating effect. In other words, the food security of people is the foundation for a prosperous and strong nation; in India it must be necessarily a part of the poverty removal programs.

The food security bill is an ambitious program ensuring access to adequate quantity of quality food at affordable prices so that people can live a dignified life. The aim of this striving project is to spend \$4 billion or more every year and distribute cheap grains to around 70 % of India's 1.2 billion people.

The Indian National Food Security Act, 2013 (also Right to Food Act), was signed and made a law on September 12, 2013. This bill was introduced into India's parliament in December 2012, circulated as a presidential ordinance in July 2013, and enacted into law in August 2013.

The law proposes to provide a kilo of rice for three rupees, a kilo of wheat for two rupees and millet for one rupee per kilogram. The food subsidies would cover 75 percent of Indians living in rural areas



and 50 percent of the urban population. The whole program would cost the government 1.3 trillion rupees, or \$23.9 billion.

Read and Respond

Case Study

Meera 34, lives in Kolkata, India. She has two school-going children to take care of. Meera earns her living working as a cook in six different houses. The salary that she earns, enables her children to live in a reasonably comfortable manner. Meera cooks many delicacies for the families she works for, but her children though not deprived of two course of meal, have to make with a basic rice and lentil dish for most of the days. If Meera can't work, food is the first thing they will miss. However Meera and her family are luckier than the four-year-old Surjo Das who lives with his seven-year-old sister on Platform No. 4 of the Howrah Railway Station in Kolkata. They beg for a living. Their breakfast is about half a puri (a staple of fried flour cake), shared by the brother and sister and lunch, two handful of dal (boiled lentils) and rice.

Surjo Das and Meera are the human face of India's grim hunger epidemic and the dismal health conditions of those too poor to afford even basic food. The National Family Health Survey for 2005/06 stated that more than 40 percent of Indian children under the age of three are underweight, 33 percent of women aged 15 to 49 have a body mass index that is below normal, and nearly four out of five children aged 6 to 35 months are anemic.

How do you think having a Food Security Bill will be able to support those who live below the poverty line? Create a case study based on two families living below poverty line.

The features of the bill is as follows:

1. This act may be called as the National Food Security Act, 2013. It extends to the whole of India;
2. Every person belonging to priority households, shall be entitled to receive five kilograms of foodgrains per person per month at subsidized prices from the state government;
3. Pregnant women and lactating mothers are entitled to a nutritious "take home ration" of 600 Calories and a maternity benefit of at least Rs 6,000 for six months;
4. Children 6 months to 14 years of age are to receive free hot meals or "take home rations";
5. The Central Government will provide funds to states in case of short supplies of food grains;
6. The current food grain allocation of the states will be protected by the central government for at least six months;
7. The State Governments will provide a food security allowance to the beneficiaries in case of non-supply of food grains;
8. The Public Distribution System(PDS) is to be reformed;
9. The eldest woman in the household, 18 years or above, is the head of the household for the issuance of the ration card;
10. There will be state- and district-level redressal mechanisms; and
11. State Food Commissions will be formed for implementation and monitoring of the provisions of the Act;

The main aim of this bill is to ensure that people have easy access to adequate quantity of quality food. Food security means that sufficient quantity of nutritious food is available all the time to fulfill the dietary needs for healthy, active and productive life.





The bill proposes to provide subsidized food grain to 67 percent of the population, 5 kg of food grain to 75 per cent of rural and 50 per cent of urban population. The Antyodaya Anna Yojna which provides protection to 2,43 crores of poorest of the poor families by supplying 35 kg of food grain would continue. Nutritional support to pregnant women is also a proposal of this Bill. Besides this it also provides meal entitlements to specific groups as: malnourished children, disaster affected persons, lactating mothers, destitute, homeless and starving persons. The Bill promises free age-appropriate meal for children between the age group of 6 months to 6 years through local aganwadi and one free mid-day meal for the children belonging to the age group of 6 to 14 years on all school working days. An effort to empower woman has also been made. The eldest woman can get the food from the Public Distribution System (PDS) for the entire family. This Bill has made use of the existing bodies like PDS and aganwadi to prevent wastage of money.

Implementation of this Bill will lower the expenditure of the BPL's enabling them to spend more on other goods and services. A BPL household that will purchase food grain at a subsidized price will be able to save 4,400 this year which exceeds their yearly medical and educational expenditure. The success of the scheme lies in proper implementation of the proposals making sure that poor are able to avail the food subsidy.

Implementation of this bill in a fair manner will be a challenge for the government. The poor people at times do not get the reserved stuff due to various reasons. An inefficient distribution channel also leads to waste. Agriculture experts are of the view that this Food Bill may discourage the agriculture production in the country as it proposes to provide grains at a very low cost. Economists have raised concerns about the cost to the exchequer at a time when the government is struggling to bridge the fiscal and current account deficits. Not only this, grains would rot lying in the open as the government does not have enough storage capacity. Viewing all this experts concluded that the hurry in which the Bill was passed did lead to a major strain to produce on consequently farmers in the years to come. More grains would be dumped in the open and rot as a result. Experts believe the rush to pass the Bill implies the intent is simply political. More investment should be made in the storage and distribution system. Only a well-planned programme will improve the food and nutritional security of poor and helpless population.

Unit End Reflections

Comprehension Questions

1. What is Right to Food? Mention the three dimensions of the Right to Food
2. How is Right to Food related with other human rights?
3. What are the obligations of the State for the fulfillment of Right to Food?
4. Discuss the common misconceptions about the right to food.
5. Describe the policies and programmes adopted by the Indian Government for the implementation of the Right to Food.
6. How have the various national and international organizations provided assistance for the protection of Right to Food?
7. Trace the development of Right to Food in India.
8. Write a short note on National Food Security Bill (2013) of India.
9. In what ways is the National Food Security Bill of 2013, inadequate for resolving the issues related to the Right to Food?
10. Suggest some remedies that would effectively help in the realization of the Right to Food.
11. Which social groups require special attention in the course of realization of Right to Food? Why?



Case Studies

Case Study 1

Sunita and Rahul along with their classmates and teacher go to Mandola village in Bihar. They see the difficult lives of people living in poverty, with little food and poor housing. They hear their stories and discover what can be done to help. They meet Mr. Pankaj, who knows that it is the right of all citizens to work with the Government to secure the basic necessities of life. He has joined with other local citizens to form an association and bring change to Mandola village. After reading the story, the reader will be able to:

- ☐ Name several causes of hunger and malnutrition.
- ☐ Describe how living conditions and access to basic services can affect food security, health and nutrition.
- ☐ Identify specific actions that can be taken by individuals, families, the community and the government to improve food, health and nutrition in poor areas.
- ☐ Poverty and discrimination prevent adequate access to food and are major causes of hunger and malnutrition. Explain

Case Study 2

Raman and Gauri are studying in a village school. They belong to a very poor family. Rarely do they get food twice a day due to poverty, lack of accessibility and availability of food. A group of citizens try to get the government to distribute stored food to the poor. This leads to free meals for school children provided by the government. Raman and Gauri can concentrate better in school now that they are not studying on an empty stomach.

Develop the story by adding points to include the following.

- ☐ Recognize that citizens can take action to make governments, politicians and civil servants accountable for what they do or do not do to ensure people's right to food.
- ☐ Identify specific situations in which people need to have food provided for them.
- ☐ State some ways in which authorities can enable and assist people to provide their own food.
- ☐ Identify specific actions that can be taken by individuals, families, the community and the government to ensure the right to food for all people. People who are not able to get adequate food on their own, need to be provided with food.

Read and Reflect

There are about 300 million hungry children in the world. 100 million of them do not go to school, and two-thirds of those not attending school are girls.

- ☐ When a full, balanced school meal is provided, a child gets at least one nutritious meal a day and is able to concentrate and learn better.
- ☐ Providing school meals helps parents send their children, especially daughters, to school.
- ☐ For only a few cents a day a child can get a nutritious meal in school.
- ☐ A school garden is a good way to improve nutrition and education of children and their families. Ask the readers to reflect on the story and discuss it. Base your discussion on the points provided in "So, what do YOU think?" on page 35 and in "This is my country" on page 26 of the cartoon book.

Have you thought about...

- ☐ What made the government take action to help hungry people?





- ☐ Why Raman and Gauri study better now that they get a meal at school?

Is it fair that...

- ☐ Sometimes governments do not fulfill their obligations?
- ☐ Some people starve, while a country has extra food stored?
- ☐ People are treated differently because of their race, religion, sex or origin?

Everybody can do something

- ☐ Choose a problem that you find unacceptable in your community and discuss what you could do something to change it.
- ☐ Steps should be taken through food and nutrition education, information and food labeling to promote balanced diets, healthy eating habits and proper food preparation.

Case Study 3

For their school work, Anna and her teenage friends interview shoppers at a supermarket, grocery store and an open-air market about their food choices. Together they learn about healthy eating and lifestyles.

- ☐ Make out a questionnaire Anna would have used for the interview with the shoppers. Ask your partner to write out the answers to the questions.
- ☐ Recognize and explain why it is important to have sufficient quantity, quality and variety of food to be healthy and well-nourished.
- ☐ Discuss how education and information help us to know about our food needs and make healthy food choices.

Points to be kept in mind

- ☐ Identify specific actions that can be taken by individuals, families, the community and the government to improve people's diets, food choices and life-styles.
- ☐ To be healthy and well-nourished, we must have the right quantity and variety of safe, good quality foods to meet our nutritional needs and we must know how to make the right food choices.
- ☐ The right to adequate food means that food must be available in sufficient quantity, quality and variety to meet the dietary needs of individuals. It must be safe and free from harmful substances and acceptable within a given culture.
- ☐ People need to have the knowledge and the skills to understand what they eat and what they need to eat so that they can make the right food choices to be healthy and well-nourished.



CHAPTER 7: RIGHT TO ADEQUATE SHELTER



The Right to Shelter or Housing is an indispensable factor in the course of ensuring human dignity to an individual. It is essential not only for the survival of human beings but also for the fulfilment of a quality life. Shelter or Housing ensures a decent standard of living for humans. Basically shelter is considered as one of the basic requirement for survival of humans, as it serves as a place to eat, sleep, relax and raise a family. But the term "Adequate housing", encompasses much more than just the four walls of a room and a roof over one's head. In fact it also helps in the fulfilment of the deep-seated psychological needs for privacy and personal space. Besides this it helps in the realization of the basic physical needs of security and protection from severe weather. Housing and shelter also help in the fulfilment of social needs by serving as centers of social gatherings, which lead to the development and nurturing of important relationships. Not only this, sometimes a house also serves as an important economic center where essential commercial activities are performed. Therefore the 'Right to Housing is an Economic, Social and Cultural Right to adequate housing and shelter. Thus housing is extremely essential for a normal healthy living.



We all need a proper house to live in

7.1 Housing in the Context of Human Rights

Many people would consider the inclusion of a subject such as housing in human rights, to be quite unusual. However, a closer look of the international and national laws explains the significance of a secure place to reside. These laws have made people realize that housing is required not only for the well being and security of individuals but also for the maintenance of human dignity. This goes on to reveal the implications and importance of housing as a human right for ensuring physical health, mental health and a good quality of life to humans all over the world. Due to these reasons adequate housing is considered as one of the most basic human needs universally.

In spite of the realization of importance of adequate housing by International and National organizations, an estimate made by the United Nations Centre for Human Settlements, has brought to light that over 1 billion people all over the world still live in inadequate houses. In addition to this around 100 million people are still living in conditions classified as homelessness. Similarly the census report of 2001 reveals that 78 million people across India are living without a home.

Various factors like increase in population, migration to other areas in search of livelihoods, conflicts over land and inadequate financial and natural resources, have led to increased homelessness and inadequate housing facilities all over the world. Homeless people can be seen sleeping on pavements, under bridges, under trucks buses or cars, on railway stations, bus stations, public parks etc. Multitudes of them are also found living in ghettos, slums and in buildings which have been abandoned by other people.

The Commission on Human Settlements' **Global Strategy for Shelter to the Year 2000** (1998) defines adequate shelter as:

"Adequate shelter means... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost."





Read and Reflect

Homelessness in Delhi

The widespread prevalence of homelessness in India's capital city, New Delhi, is a matter of national shame. What is even more horrifying is the failure of the city and central government to firstly acknowledge and then address the crisis. The most recent official effort to document the extent of homelessness in Delhi occurred in 1991 as part of the Census of India.

According to unofficial estimates, there are nearly 100,000 homeless on any given day in Delhi, and there are, at any given time, 10,000 homeless women. At present, however, there are only 12 permanent shelters in Delhi, which at maximum capacity, offer accommodation to 6,200 individuals, leaving the remaining 94% to fend for themselves on the streets of Delhi. Of these, only three shelters are available for use by homeless women which, at maximum capacity, are capable of accommodating roughly 100 women, or 1% of Delhi's total estimated population of homeless women.

An examination of the conditions of existing permanent night shelters further elucidates both the gross negligence of the Municipal Corporation of Delhi (MCD), the New Delhi Municipal Council (NDMC) and the Government of Delhi, as well as their continued derogation from the responsibility to help care for the most vulnerable segments of society. These shelters are characterized by a state of general disrepair and in the most egregious of cases, are grossly inadequate and unsanitary. Forced to use these shelters due to a lack of available alternatives, many of the homeless frequently complain of a lack of water, medical facilities, storage facilities, insufficient or inadequately functioning toilets, mistreatment and abuse at the hands of MCD staff and police, and filthy and unwashed bedding.

Source: Housing and Land Rights Network Press Release on Homelessness in Delhi, 11 January 2006 (available at www.hic-sarp.org)

7.2 Homelessness

A situation when an individual lacks a regular, safe and proper accommodation as he may not be able to maintain or afford it.

7.2.1 Who are Homeless?

A homeless person is a person who lacks a proper night time residing place.

They are categorized as:

1. People living in private or public operated shelters built for providing temporary accommodation. (These include hotels, transitional housing facilities for mentally ill, congregate shelters etc.)
2. People residing in temporary accommodation provided by institutions that provides a temporary residence for individuals.
3. People using public or private places (of other individuals) as a regular accommodation for sleeping.

7.2.2 Factors Contributing to Homelessness

A broad range of people suffer due to homelessness. Various circumstances contribute to homelessness. They can broadly be divided into the following two categories:





(a) **Structural Factors:**

1. **Lack of reasonably Priced Housing**

Homelessness is greatly influenced by property rates. If the property rates are very high, then the low income group people are unable to afford a house.

2. **Unemployment due to Changes in the industrial economy or other fields**

Changes in economy have a great impact on the economic condition of the industrial sector and other sectors of society. The downfall of an economy results in cost cutting by industries due to which many people are thrown out of jobs. Thus due to unemployment these people are unable to afford a house.

3. **Insufficient income**

Sometimes in spite of being employed, people cannot afford a house due to their meager salaries.

4. **Withdrawal of family and social support**

Patients with mental or health problems are sometimes considered a burden by their family and society. The withdrawal of family and social support in such cases renders such people homeless.

Read and Respond

Make a list of the basic necessities to build an adequate housing. Make a separate list of things you require for survival and things required to live a safe and fulfilling life. Compare the list made by you with your classmates.

(b) **Individual factors:**

1. **Psychological or Physical Sickness**

Sometimes due to certain psychological or physical sickness people are unable to live a normal life. They are not able to earn their livelihood. Thus due to lack of finances and mental instability they are unable to afford a house.

2. **Material Abuse**

Sometimes physical or mental abuse of individuals renders them homeless.

3. **Domestic Violence**

Many individuals are sometimes forced to leave their homes when they are unable to bear the atrocities meted out to them by their family members. The main victims in such cases are women, children and the elderly.

4. **Loss of Employment**

Many individuals are rendered homeless when they are not able to afford a house when they suddenly become unemployed due to various reasons.

Besides these there are **many other factors** that contribute to homelessness. Some of them are as follows:

1. **Poverty:** Poverty often leads to homelessness as people living in poverty are not in a position to afford the basic requirements of life like food, shelter, healthcare etc.
2. **Drug Addiction:** Drug addiction further increases the chances of homelessness as when poverty stricken people further waste their meager resources on buying drugs, their financial capacity to afford house further reduces.
3. **War:** Destruction due to war renders several people homeless.
4. **Unemployment:** Unemployment results in loss of income which often leads to homelessness.





5. **Divorce:** Separation of couples due to divorce leads to homelessness of either husband or wife. In such situations the children of these single parents are also at the risk of becoming homeless.
6. **Natural Disasters:** Natural disasters such as cyclone, Tsunami and other calamities lead to destruction of homes and families. Thus natural disasters often dislocate several families and render them homeless.

Read and Respond

Ruchi, a girl of ten years is woken up every morning by the yelling sound of policemen. They shout at her every morning, in order to get her off the pavement. For doing so they often abuse her physically. Ruchi is homeless, and keeps moving on the streets of Delhi in search of shelter, just like thousands of other homeless children in Delhi. Ruchi came to Delhi from Rajasthan with her mother and younger brother in search of a living, when they lost their land to moneylenders due to rising debt. Together they begged on the streets of Delhi. One fine day, she got separated from her mother and since then is trying to survive alone on the streets of Delhi. She now manages to buy just one meal for herself in a day by selling newspapers at traffic lights. But she lives in fear on the streets of Delhi due to street hoodlums and the police.

Read the case study given above and answer the following questions:

- Q1. Look around for homeless people around you in your area. List out the basic necessities that they lack. Amongst these which according to you are the most essential for survival of human beings?
- Q2. Find out about the ongoing government schemes to ameliorate the homeless in your locality.
- Q3. Suggest the ways in which you could help in the rehabilitation of homeless people living in your city.

7.3 What is the Right to Shelter?

The right to adequate shelter is a universal right which has been recognized internationally and nationally all over the world. Up till now more than one hundred national constitutions all over the world have recognized the Right to shelter. The right to shelter is a right that has been guaranteed to every individual person.

The world has realized the importance of the Right to shelter and by and large it has been included in several international legally-binding documents. The most significant amongst these is the International Covenant on Economic, Social, and Cultural Rights (ICESCR) (Article 11.1), which determines that:

"The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."

NO SHELTER

Families (in lakh)	2001	2011
Rural	2.6 0.19%	1.93 0.11%
Urban	1.88 0.34%	2.57 0.32%
Total	4.48 0.23%	4.5 0.18%
Population (in lakh)		
Rural	11.65 0.16%	8.35 0.10%
Urban	7.79 0.27%	9.38 0.25%
Total	19.43 0.19%	17.73 0.15%



The meaning and scope of the right to housing as expressed in the Covenant of 1991 by the Committee on Economic, Social, and Cultural Rights or CESCR, (the body that monitors the International Covenant on Economic, Social and Cultural Rights) was further clarified in the General Comment 4 issued by the CESCR. It says:

"The right to adequate housing applies to everyone. The phrase himself and his family does not refer to any limitation in the right to housing to individuals, female-headed households, or other groups. Furthermore, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status, and enjoyment of this right must not be subject to any form of discrimination." (paragraph 6) It further explains: *"The right to housing should be interpreted in a broad and inclusive sense as the right to live in security, peace and dignity, rather than a narrow or restrictive sense. The right to housing is inextricably linked to other fundamental human rights and should be seen as referring to not only housing by adequate housing."* (paragraph 7). The right to adequate housing must be viewed in conjunction with other human rights included in the two International Covenants and other international instruments (paragraph 9).

Thus "adequacy" with regard to housing is found to be greatly influenced by several social, economic, cultural, climatic and ecological factors. The Right to Adequate Housing is also applicable in the following context:

Legal Security of Tenure: Security of tenure means that people living in an area should be provided legal security against any kind of threat, harassment or forced eviction, by their government.

Availability of services, materials, facilities and infrastructure: Adequate housing is one that ensures comfort, protection and proper health and nutritional facilities. An adequate house should have the provision of safe drinking water, energy for cooking, heating and lighting, sustainable access to natural and common resources, proper sanitation facilities emergency services etc.

Affordability: Affordable houses are houses which are reasonably priced and their cost does not hamper other basic requirements. The governments of the various countries should ensure by all means that the costs of houses are in proportion to the overall income levels of the majority of the people. They should also provide subsidies to those who are unable to afford a respectable housing. Steps should be taken to protect tenants against unreasonable rates of rent. States should also ensure proper availability of materials required to build houses.

Read and Respond

Can you link each of these rights to shelter through examples? Discuss with your partner and present to the class.

Habitability: Habitable housing ensures adequate space, security and protection from health threats and weather, to its occupants.

Accessibility: Adequate housing must be accessible to all social groups in a society without any kind of discrimination. Extra consideration must be provided to all disadvantaged groups of the society who have special housing needs.

Location: An adequate housing is one that is located in an area where adequate jobs, health care facilities, schools and other social facilities are easily accessible. They should be located in a pollution free environment.

Cultural Adequacy: Housing should provide all modern facilities but should also maintain the ethnicity and culture of that society. The state should provide facilities to ensure protection of cultural dimensions.

The Commission on Human Settlements' Global Strategy for Shelter to the Year 2000 (1998) has defined adequacy in the following way:

"Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate





lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost.”

In addition to the Human Rights referred to in the CESCR's General Comment 4 there are many other rights which need to be imparted for the proper fulfilment of the right to adequate housing.

Thus it is extremely essential to incorporate the following rights for proper realization of the Right to adequate shelter:

- ❑ The Principle of Non-Discrimination.
- ❑ The Right to Freedom of Expression.
- ❑ The Right to Freedom of Association (such as for tenants and other community-based groups)
- ❑ The Right to Freedom of Residence (and the right to freedom of movement).
- ❑ The Right to Participate in Public Decision-Making.
- ❑ The Right to Security of a Person (in the case of forced or arbitrary evictions or other forms of harassment).
- ❑ The right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence.

On the other hand the right to adequate housing is the basic factor in ensuring the fulfilment of the following human rights:

The Right to Family, The Right to Participate in Government, The Right to Work, - The Right to Rest and Leisure, - The Right to Food and Water, - The Right to the Highest Attainable Level of Physical and Mental Health, The Right to Education, The Right to Participate in the Cultural Life of the Community.

7.3.1 Key Aspects of the Right to Adequate Housing

The Committee on Economic, Social and Cultural Rights has emphasized clearly that the right to adequate housing has a very wide meaning. It should not be interpreted in the literal sense only but should be interpreted in the broad sense as a right that assures a life of security, peace and dignity. The United Nations Committee on general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions, have defined the characteristics of the Right to Adequate Housing in the following manner:

The right to adequate housing encompasses the following freedoms. These freedoms include:

1. Protection against forced destruction, demolition or eviction from one's house.
2. Guarantee of freedom from arbitrary interference in the privacy, family or home of an individual.
3. Guarantee of freedom to an individual for choosing one's residence and location of residence. Every individual should also be ensured freedom of movement.

The right to adequate housing entitles an individual to the following rights:

1. Security of Tenure.

Read and Reflect

The **Bodhgaya movement** took place in the Gaya district of Bihar, in 1978. This movement has a great historical significance in the struggle for land rights of women. In this movement of landless labourers, women, demanding land rights for the land which they had been cultivating for decades. In course of events of this movement, women captured around 3,000 acres of land and ploughed it, independently in 1980.



2. Compensation of house, land and property.
3. Equality and non- differentiation in access to adequate housing.
4. Right to participate in planning and decision making of issues related to housing in the society as well as at the national level.

Read and Respond

Case Study 1

"All of us are poor. We cannot rent a house. Everyone is a daily wage worker. On the day of Sankranti, many bulldozers with trucks came. We tried to protest. They abused us. If the government had objections to our houses, why did they provide electricity metres?"

Pratibha Prakash Kadam, Vikhroli, Mumbai

Source: Bulldozing Rights: A Report on the Forced Evictions and Housing Policies for the Poor in Mumbai, Indian

People's Tribunal on Environment and Human Rights, Mumbai, June 2005.

Case Study 2

"One morning, the police came and threw us out of the shelter by force. The NDMC sweepers beat us up very badly. Small children were picked up and hurled onto the streets. We were all injured and had to be taken to the hospital by people from Aashray Adhikar Abhiyan. Since that day, I suffer from nervous attacks. I am told that relocating slum dwellers is part of a city beautification drive. What kind of beauty will it be, that kills off people to make space for parks?"

Haruna Begum (45 years) who was evicted in October 2004 from Palika Hostel night shelter in New Delhi where she used to sleep after she was forcibly evicted from the slum cluster in which she resided with her children.

Source: Report of Miloon Kothari 2006, for National Human Rights Commission

Read the case studies given above and answer the following questions

- Q1. Imagine yourself to be the victim of such a situation? What would be your course of action in this kind of situation?
- Q2. Who according to you is responsible for these kind of forced evictions?
- Q3. Give your views on the role of government in situations like this?
- Q4. Suggest remedies for forced evictions of slums?

7.4 Violation of Housing Rights in Post-disaster Scenario

The housing and habitats of people get destroyed many times due to natural disasters like earthquakes, cyclones, floods etc. For instance as a result of the tsunami of 26 December 2004, in the Indian Ocean, around 1.8 to 2.5 million people were rendered homeless across several countries. Similarly the massive earthquake of 26th January 2001, in Gujarat, rendered thousands of people homeless. Due to such disasters, the survivors face very difficult living situations due to loss of family members, housing and forced relocation. Along with this they face multiple violations of human rights due to lack of adequate facilities in temporary shelters or delayed facilities in construction of permanent housing. Women suffer even more as the reconstruction efforts done are usually gender-insensitive.





7.4.1 Development of Right to Shelter at the International Level

The increasing number of homeless people throughout the world, developed the need for some kind of right to adequate housing. In the International arena the Right to Shelter was recognized and promoted by the United Nations soon after its formation by the following institutions:

(I) United Nations Universal Declaration of Human Rights and Right to shelter

The Universal Declaration of Human Rights in Article 25 (1), has clearly mentioned the right to adequate housing in the following words:

"Everyone has the right to a standard of living adequate for health and well being of himself [or herself] and his [or her] family, including food, clothing, housing and medical care and necessary social services"

The protection of the right to adequate housing, enshrined in the Universal Declaration of human rights, pertains to every Member State of the United Nations. After this adoption of the Universal Declaration by the U.N in 1948, the United Nations has adopted several other measures for reaffirming and reinforcing housing rights.

(ii) International Covenants, Conventions and Right to Shelter

In addition to the Universal Declaration, several international covenants and conventions encompass provisions for Right to Adequate housing. These international instruments or treaties are obligatory for all the States that are a part of it.

ICESCR (International Covenant on Economic, Social and Cultural Rights of February 2002): It is mandatory for the 145 States that participated in the Covenant, to implement the Article 11(1), which states:

"The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself [or herself] and his [or her] family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent."

(iii) Universal Declaration of Human Rights (Article 17)

General Comments and Recommendations adopted by United Nations Treaty-Monitoring Bodies on Right to shelter:

The United Nations Committee on Economic, Social and Cultural Rights, is the treaty monitoring body that monitor that the member States as to whether they are complying with the rules promulgated by the ICESCR. It consists of 18 independent experts. Thus it has played a very prominent role for the promotion and implementation of the rights regarding adequate housing.

As we know the right to adequate housing has been guaranteed by the Article 11(1) of the ICESCR. Thus it is one of the most significant legal document of the human right to adequate housing, in the international arena. Thus this provision of the ICESCR has been acknowledged as the most prominent document by the Committee on Economic, Social and Cultural Rights during the past decade, as it has resulted in inspiring many more jurisprudential developments, for the fulfilment of the right to shelter.

In 1991, the Committee adopted General Comment No. 4 on the right to adequate housing, which provides the most authoritative legal interpretation of the right to adequate housing.

In addition to this the General Comment, No. 4 gives a legal clarification of the right to shelter and explains its real meaning. It explains that the right to shelter should not be interpreted in



the literal sense and as a commodity (i.e. right to shelter means providing merely a roof over one's head). Whereas, it should be interpreted in a broad sense, as a right to live somewhere in security, peace and dignity. Thus General Comment No. 4 explains the concept of adequate housing with the help of a number of factors, which must be fulfilled in order to determine shelters as "adequate housing". It has been analyzed that several social, economic, cultural, climatic, ecological and other factors determine adequacy. As mentioned earlier the General Comment has outlined seven more integral components that determine adequacy, namely Legal security of tenure; availability of services, materials, facilities and infrastructure; Affordability; Abetability; Accessibility; Location and Cultural adequacy.

General Comment No. 4 also outlines the necessary legal steps, that need to be taken by the Governments of the member states, to fulfil the obligations for housing rights outlined by the international laws.

The issue of liability for forced evictions, have also been addressed by International human right bodies from time to time. The Committee on Economic, Social and Cultural Rights in 1997, adopted the General Comment No.7, on the right to adequate housing (forced evictions). General Comment No 7 explains the meaning of 'forced eviction' clearly. It also reaffirms that evictions, whether forced or lawful, are absolute violation of the right to adequate housing. In addition to this it has also outlined a series of procedural steps that must be adopted in cases where eviction is inevitable.

Besides this in 1993, the Commission on Human Settlements urged the various member States to adopt appropriate monitoring techniques to measure the extent of inadequate housing homelessness or other issues regarding right to adequate housing. In addition to this, Agenda 21 also recognized the importance of security of tenure. It also prohibited such practices (especially forced mass evictions and racial or any other discrimination) of the States themselves, which would result in infringement of the human rights to adequate housing.

After examining the reports of the member States the Committee reached a conclusion that majority of the States have failed to comply with their respective housing right obligations outlined in the Covenant. To eradicate this problem the Committee gave recommendations to the member States, to issue legislative and other measures for fulfilling the norms embodied in the Covenant as well as for the realization of the housing rights for its citizens.

Other human rights treaty-monitoring bodies also monitor whether the member States are complying with the housing right norms. Notable efforts in the direction have been made by the following Committees - the United Nations Committee on the Elimination of Racial Discrimination, the Committee on the Rights of the Child and the Committee on the Elimination of All Forms of Discrimination against Women. All of these ensure the global compliance of housing right norms which are found in the respective treaties monitored by these bodies.

7.4.2 Office of the High Commissioner for Human Rights (OHCHR) and UN-HABITAT and Right to shelter

Recent by, great efforts have been made by UN-HABITAT and OHCHR of the U.N to fulfil the housing rights in the world. For the implementation of the housing rights that have been for long adopted internationally, have played a great role in protecting them housing rights have been protected to a great degree by these institutions.

As the co-coordination of the human rights programme of the UN, the OHCHR has greatly promoted housing rights, A number of fact sheets on the human right to adequate housing have been published





by the OHCHR. Recently it has also launched a website (<http://www.unhchr.ch/housing>), to provide information on housing rights to the public and various governments all over the world.

In addition to this expert conferences on human rights to adequate housing were convened by OHCHR and UN-HABITAT, in 1996 and 1999. This has greatly strengthened the efforts being made for the promotion of housing rights. The UN-HABITAT is continuously working towards fulfilment of housing rights, for which it has developed a United Nations housing rights strategy.

Furthermore, both the organizations are now working in collaboration, which has led to the formation of a joint organization, UNHRP in 2002.

7.4.3 Manifest Violations of the Human Right to Adequate Housing

1. Slums and Inadequate Settlements

A "slum" is: *"a settlement in an urban area in which more than half of the inhabitants live in inadequate housing, and lack basic services."* (as defined at an **Expert Group Meeting by UN-HABITAT and its partners in November 2002**)

A slum household consists of a group of people living under a common roof, lacking one or more of the following five services:

- ☐ Sturdy or prolonged housing
- ☐ Sufficient residing area
- ☐ Availability of suitable water
- ☐ Availability of proper sanitation facility
- ☐ Security of tenure



Slum clusters near the drain

The continuous rise in the number of slum dwellers all over the world reflects the failure on the part of the State, to provide adequate housing to its citizens. Although the nature and characteristics of the slums differ according to geographical regions and cultures, the common underlying feature of deprivation of basic services for inhabitants, is the same universally in all slums.

According to the UN-HABITAT the number of slum dwellers all over the world have increased from 715 million since 1990, to 998 million today. One out of every three city dwellers, live in slums. Most of the slum dwellers in Southern Asia - 63 percent, or almost 170 million people - reside in India. (*Report of the UN Special Rapporteur on adequate housing, Miloon Kothari, E/CN.4/2006/41, 14 March, 2006.*)

It has been observed that to get rid of the problem regarding slums, instead of improving the living condition of the slum dwellers the States have adopted the policy of demolishing slums. This is certainly a violation of the right to adequate housing.

2. Forced Evictions

General Comment No. 7 of the Committee on Economic, Social and Cultural Rights, has defined forced eviction as the, *"permanent or temporary removal against the will of individuals, families or communities from their homes or land, which they occupy, without the provision of and access to, appropriate forms of legal or other protection."* Further it encouraged member states to formulate appropriate laws to prevent forced evictions, and punish the ones violating those laws.



The UN Commission on Human Rights has also recognized forced evictions as a violation of the right to adequate housing in the UN Commission on Human Rights resolution 'Forced Evictions', E/CN.4/1993/77.

In spite of the development of so many provisions internationally for the prevention of forced eviction, it is still being carried out in large numbers all over India, especially for development of projects and in urban slums, especially in metro cities like Mumbai, New Delhi, Hyderabad, Chennai, Kolkata, Ahmedabad and Bangalore.

This problem has become very grave in cities like Delhi and Mumbai, where after massive slum demolitions no steps were taken for alternative housing and rehabilitation of slum dwellers. The livelihoods of slum dwellers are completely destroyed sometimes due to forced relocation to distant sites. They are not paid any compensation either and are sometimes forced to live on streets, where they are relegated to abuse and marginalization. Thus the Hazards Centre, New Delhi has estimated, that in New Delhi alone, over 100,00 families i.e. over 40,000 people were evicted between the years 2000 and 2006. Similarly, brutal slum demolitions have also taken place in the city of Mumbai over the last few years. Such events thus not only violate the Right to Shelter but also Human Rights to Livelihood, Health, Education and the Right to Live with Dignity.

7.5 Development of Right to Shelter in India

Although the right to an adequate housing has been acknowledged as the basic human right, many people all over the world are still deprived of it. The data of Census 2001, indicates clearly that 82 million of India's total urban population still resides in slums and other inadequate settlements. Thus about 30% of India's urban population even now have little or no access to adequate housing facilities. The situation is even worse in rural areas. Therefore according to the estimate around 50% of India's population is still deprived of adequate living conditions.

To eradicate this problem a number of countries all over the world, have adopted many national and municipal laws, to guarantee the right to adequate housing. To follow suit, India has also adopted certain constitutional provisions and laws, to provide the right to adequate housing to all its citizens.

7.5.1 National Legal Obligations Regarding Right to Adequate Housing

The Principles of Liberty, Fraternity, Equality and Justice, are determinedly grounded in the Constitution of India. The constitutional provisions that guarantee the Right to Adequate housing are:

A. Fundamental Rights

- a. Equality before the law. (Article 14)
- b. Non-discrimination on grounds of religion, race, caste, sex, place of birth. (Article 15 (1))
- c. Special provisions in favour of women and children based on the principle of protective discrimination. (Article 15 (3))
- d. Equality of opportunity in matters relating to employment or appointment to any office under the State. (Article 16)
- e. Freedom to move Freely throughout the territory of India. (Article 19 (1) (d))
- f. Freedom to Reside and settle in any part of the territory of India. (Article 19 (1) (e))





- g. Right of all citizens to practice any profession, or to carry on any occupation, trade or business. (Article 19 (1) (g))
- h. Right to Life and Personal Liberty. (Article 21)

B. Directive Principles of State Policy

- a. State Policy to be directed to secure for both men and women equally, the right to an adequate means of livelihood. (Article 39(a))
- b. State Policy to be directed to ensure equal pay for equal work for both men and women. (Article 39 (d))
- c. State Policy to be directed towards securing that the health and strength of workers, men and women and children are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age or strength. (Article 39 (e))
- d. State policy to secure equal justice and free legal aid to ensure that opportunities of securing justice are not denied to any citizen. (Article 39-A)
- e. Provisions to be made by the State for securing just and humane conditions of work and for maternity relief. (Article (42))
- f. State to secure a Uniform Civil Code for the citizens. (Article 44)
- g. It is the duty of the State to raise the level of nutrition, standard of living and to improve public health. (Article 47)
- h. The state shall endeavour to foster respect for international law and treaty obligations in the dealings of organized peoples with one another. (Article 51 (c))

C. Fundamental Duties

It is the fundamental duty of the State and all citizens to renounce practices derogatory to the dignity of Women. (Article 51(A)).

D. Legal Right to Property

No man or woman shall be deprived of his or her right to property by the State, except by authority of law. (Article 300-A).

7.5.2 Pronouncements/Decisions of Apex Court Regarding Right to Adequate Housing

A number of important judgments have reiterated the relation between the right to housing and right to life, as guaranteed by the Article 21 of our Constitution. The Supreme Court of India has also several times stated that the right to adequate housing is a fundamental human right through numerous pronouncements, some of which are:

- ❑ U.P. Avas Evam Vikas Parishad vs. Friends Coop. Housing Society Ltd: In this case the court pronounced that: "The right to shelter is a fundamental right which springs from the

Read and Reflect

Olga Tellis vs. Bombay Municipal Corporation (1985) 3 SCC 545 : In the pronouncement of this case, the court stated that the right to livelihood is inseparable from right to life. Eviction of the petitioners from their slum and pavement dwellings would deprive them of their livelihood, which would be a violation of the Article 21 of the Constitution. The Later benches of the Supreme Court have also approved of the Olga Tellis pronouncement and have followed suit.

- **Ahmedabad Municipal Corporation vs. Nawab Khan Gulab Khan, (1997) 11 SCC 123** Article 19 (1) (e) : In this case the court held that the right to residence and settlement in any part of India, is as a basic right of Indians. The court also called for special protection for Scheduled Castes and Tribes.



right to residence under Article 19(1)(e) and the right to life under Article 21".

- ❑ **Francis Coralie vs Union Territory of Delhi (1981)** In the decision of this case the Supreme Court stated: "We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and coming along with fellow beings."
- ❑ **Chamoli Singh and others vs. State of UP [(1996) 2 SCC 549 132]:** In the decision of this case the Supreme Court stated that the entire list of civil, political, social and cultural rights, upheld by the Universal Declaration of Human Rights and the Indian Constitution cannot be implemented properly without the fulfilment of basic human rights, especially right to life. According to this decision, the right to life implies the right to food, water, decent environment, education, medical care and shelter. It further explained the right to shelter as *"Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop and develop as a human being."*

7.5.3 International Legal Obligations of India for the Right to Adequate Housing

India is legally bound to fulfil the international laws on right to adequate housing that India has ratified.

These include the following instruments:

- ❑ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- ❑ The Convention on the Rights of the Child (CRC)
- ❑ The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- ❑ The International Covenant on Economic, Social and Cultural Rights (ICESCR).

Read and Respond

Interact with some homeless people living in your locality. Explore their needs and reflect on how you can help them in achieving their right to adequate housing.

As India has signed all these conventions, it is the bounded duty of the Indian Government that the economic, social and cultural rights outlined in these conventions are promoted and protected in India.

7.6 Further Recommendations for the Realization of Right to Adequate Housing

The inequalities in the area of land ownership and lack of adequate housing and living conditions in India, clearly indicate that we still have to go a long way for the fulfilment of right to adequate housing. The basic requirement to resolve the housing needs is to develop strategies to address structural causes of homelessness, like unemployment, forced evictions, migration etc. Besides this it is also necessary to address the crises that arise through homelessness.

The problem of inadequate housing can be resolved by the national and state governments, through some of the following recommendations:

- ❑ By developing schemes for public housing for the poor;





- ❑ By introducing land ceasing laws. Along with it by solving cases that are obstructing redistribution of land that the government had already ceased;
- ❑ By implementation of agrarian and land reforms;
- ❑ Developing schemes for rural development, employment and prevention of forced migration to urban areas;
- ❑ Resolve the problems of both homelessness and inadequate housing conditions in rural as well as urban areas;
- ❑ Implementation of credit schemes with low interest for farmers;
- ❑ Formulate laws for protection of land and housing rights of women. For example laws on joint registration of both men and women, for marital property;
- ❑ Introduce measures to check excessive land holdings by some individuals or real estate, and prevent growth of land mafias;
- ❑ Development of sufficient and adequate housing for the homeless in urban areas;
- ❑ Development of separate, sufficient and adequate housing for the homeless women and children;
- ❑ Implementation of comprehensive rehabilitation schemes and policies for prevention of forced evictions and displacement;
- ❑ Introduction of comprehensive housing policies, to resolve the issues of slums adequately; and
- ❑ Ensure that national laws and policies on housing comply with international laws and that international norms on adequate housing are being followed;

7.6.1 Individual Advocacy Methods

Although a number of initiatives have been taken for the fulfilment of right to adequate housing, a lot more needs to be done to bring in the reform effectively. This change can be brought about by each and every individual. Some advocacy methods to be adopted by individuals can include :

- ❑ Performing Direct Action through rallies, protests, petitions, campaigns etc.;
- ❑ Approaching or writing letters to government officials;
- ❑ Participating in ongoing campaigns for the promotion of right to adequate housing;
- ❑ Organizing and participating in seminars and conferences related to right to adequate housing;
- ❑ Spreading awareness regarding issues of right to adequate housing through media;
- ❑ Creating awareness amongst people by distributing leaflets, brochures, articles etc.;
- ❑ Working as volunteers for local organizations, for promotion of right to adequate housing;
- ❑ Raising funds for projects working for the homeless and street children; and
- ❑ Spreading social awareness through artistic expression such as music, dance, street theatre etc.;

Unit End Reflections

Comprehension Questions

1. Describe the obligations of the States as outlined in the international human right instruments for the fulfilment of the right to adequate housing .





2. What are the legal obligations of India regarding right to adequate housing.
3. Discuss the impact of jurisprudence developed over last two decade by the Supreme Court, on the right to adequate housing and .
4. Write a short note on National Habitat and Housing Policy, 1998 and National Policy on Resettlement and Rehabilitation, 2004.
5. How can we say that forced evictions, especially in the case of slum dwellers, violate the human right to adequate housing?
6. Discuss the impact of developmental projects on the right to housing.

Case Study

Violation of the Right to Adequate Housing and Land of Tsunami Survivors in Tamil Nadu and Andaman and Nicobar Islands

A year and a half after the tsunami, despite the outpouring of aid, living conditions of many tsunami survivors are still abysmal. The failure of involved agencies and actors to adequately respond to the disaster is reason for much concern.

In India, the survivors' human right to adequate housing has been violated in most places in Tamil Nadu and the Andaman and Nicobar Islands, not just by the government, but also by international and other relief and voluntary agencies. Most temporary and intermediate housing shelters were built with poor and inadequate materials, and without consideration for space, location, size, sanitation, security and culture.

The building of structures without consideration for the elements of the human right to adequate housing in order to merely meet an emergency need, proved to be counterproductive while causing further deprivation.

While temporary housing in Tamil Nadu was built of a material called "tar sheeting", in the Andaman and Nicobar Islands tin was used for "intermediate" shelters intended to last for up to two years. In both regions, the materials trapped heat making the shelters completely uninhabitable while limiting ventilation.

Survivors in Tamil Nadu referred to the tar sheet structures as "cattle sheds" as they were completely unfit for human habitation, and violated the dignity and human rights of men, women and children. They complained that the smell of the tar was so nauseating that they could not enter the shelters initially. In some cases, the tar melted and dripped into homes. Due to the intense heat and humidity inside the temporary structures, many women and children had developed boils on their skin and scalps. Tar sheet housing proved to have little resistance against the rain and everywhere it was used, people complained of leaking roofs and decomposing structures. Several resettlement sites were built in low-lying areas and therefore, flooded with the slightest rain. Furthermore, women complained that the thin and flimsy tar sheets failed to provide privacy from the next shelter.

Read the case study given above and answer the following questions

- Q1. Imagine yourself to be a survivor of a natural disaster. What would be your basic necessities in such kind of situation?
- Q2. Do you think that disaster management planning by the government would ease these kind of situations? Chalk out an effective plan to provide basic necessities to survivors of various kinds of disasters.

Source: http://www.hic-sarp.org/news_show_user.php?id=42





CHAPTER 8: RIGHT TO KNOW OR RIGHT TO INFORMATION

The days of despots, dictators and kings are over. World over, democracies are in. People vote for the governments, which do not only to rule but work in the interest of the people. People want a nation free of hunger. They want a nation where each person has shelter and a roof over the head: they want a nation



सूचना का अधिकार RIGHT TO INFORMATION

where all children have access to education: they want a nation where the society is not divided on the basis of caste, creed and religion. Tagore had dreamt of a "Heaven of Freedom" where the mind was without fear; where the people would move about with their head held high.

In a democracy it is public opinion that helps political parties to get elected to power and form the government. It is important that the people should have adequate information before they formulate of their opinion. Without information, citizens cannot make the right choices, whether it is about electing their leaders or participating

in the decision -making process. The right to access information has been considered as a part of the freedom of expression under Article 19 of the International Covenant on Civil and Political Rights (ICCPR). It includes the right to seek as well as find information and gives the right to demand for such information. The free flow of right to information allows the people of a society, the media, regional, ethnic groups to express their views and protect their identity etc. To each Human Rights Treaty, there is an enforcement tool to safeguard the interest of the people and ensures that governments observes their commitments. It takes place in two ways: periodical reports from the government agencies and complaints from individuals. The Human Rights Committee and European Court of Human Rights work as a court to hear individual complaints. The right to transmit information of intentions is the most provable aspect in the Right to Information. It is the right of every citizen to get information on how any department or organ works.



The UN Human Rights Committee underlined that expression is a broad concept and not restricted to political, cultural or artistic expression, controversial, false or shocking expressions. Article 19 of the ICCPR challenges governments who do not wish to give information regarding their working and with hold information .The right to information makes it possible for the individuals to received the required information and take decisions.

New projects, rules and codifications have increased the number of countries with the freedom of information but many laws remain stagnant. The most significant development which has occurred in the recent years has taken place in Africa. Presently ten of the African countries have rules and regulations regarding the right to freedom of information. Many other countries of Africa are also following suit. Accessing information is pivotal for the people who live in wretched conditions. It leads to the empowerment of exercising economic -political and social rights leading to becoming, economically active and learning new skills.



Read and Reflect

"Freedom of information is a fundamental right and is the touchstone of all the freedoms to which the United Nations is consecrated,"

-United Nations' General Assembly, 1946.

The founding fathers of the Indian Republic termed India as the "steel frame of democracy". India is the biggest democracy in the world. People are the masters of a democracy. Therefore the people have the right to know about the functioning of the government. A transparent government strengthens the democratic system. The term transparency requires two principles: disclosure from the public agencies or government and the citizen's right to seek information. Different agencies are working on the issues of RTI. They have developed resolutions and declarations to promote these two principles.

According to **Commonwealth Human Rights Initiative (CHRI)** the right to information is itself a fundamental right, a solution and tool to reduce poverty as well as to stimulate development. In 2008 CHRI conducted an 'International Conference on the Right to Public Information' with 125 members from 40 countries representing international financial institutions, governments, private and public agencies, media, scholars etc. It adopted an 'Atlanta Declaration and plan of action for the Advancement of the Right of Access to Information'.

Read and Reflect

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

- Article 19, The International Covenant on Civil and Political Rights.

8.1 Countries that Follow RTI Act

More than 90 countries in the world have been implemented the Freedom of Information Act. The Freedom of Press Act that was implemented by Sweden is the first and is the oldest in the world. In USA it is known as the sunshine laws or open records to promote openness and publish information. Canada allows its citizens to access or they can demand records from the Federal government through the Access to Information Act. By 1990, the number of countries with the Freedom of Information laws increased to 13. A big step forward was the EU Charter of Fundamental Rights 2000, which covered both freedom of expression and the right to access to basic documents. German Federal Government passed a Freedom of Information law in 2005.

The Irish Freedom of Information Act was passed in 1998 and it brought a consequent relationship among the journalists, citizens, public bodies and different departments of the government. The main feature of the Irish Freedom of Information Act is that very few restrictions are placed on the information that is accessible to the public.

By 2010, more than 85 countries had national level RTI laws or regulations in force including the major developing countries like India and China.

Chronology of Freedom of Information Laws

- Sweden 1766
- Colombia 1888
- Finland 1951
- U.S.A 1966
- Denmark, Norway 1970
- France 1978
- Australia, New Zealand 1982
- Canada 1983

(source-www.podcast.cgg.gov.in)

8.2 National Perspective on RTI Act

We in India also took care of this when we adopted the Constitution. Article 19 of the Constitution guarantees the right to freedom of speech and expression. But there was no explicit provision stating that the people had the right to seek information. The government and its functionaries were wrapped in secrecy. The Official Secrets Act of 1923 - a colonial act - continued to deny access to the people to know about working of the government. It was strangulating. The people fought to





acquire their right to know. The Press Council of India worked very hard to pressure the government to provide an instrument to make the people real masters. The Supreme Court of India in its various judgements held that the right to freedom of speech and expression could not be enjoyed by the people unless they were empowered to receive the information regarding the dynamics of the government. Disclosure of information as regards the functioning of the government must be a rule and secrecy an exception. International pressure continued to have some effect on the need to have a specific law to cater to the fundamental human right leading to insight into the functioning of the government. In fact, as a party to the International Covenant on Civil and Political Rights, we were under an international obligation to effectively guarantee the right to information to the people. The strengthening of democratic tendencies worldwide along with liberalization as well as globalization strengthened the RTI movement and the result was Right to Information Act, 2005. Its enactment guaranteed the right to information to the citizens. *"By one fell stroke, under the Act, the maze of procedures and official barriers that had previously impeded information, has been swept aside. The citizens and information seekers have, subject to a few exceptions, an overriding right to be given information on the matters in possession of state and public agencies that are covered by the Act".....said Justice S. Ravindra Bhat. The veil of secrecy was over.*



RTI Legislations - A Comparison

Table 2: India vs Developed Nations

Country	Sweden	UK	US	India
Constitutional Protection	Protected	Not Protected	Not Protected	Protected (by interpreting)
Legislation	Freedom of the Press Act 1766	FOI Act 2000	FOI Act 1966	RTI 2005
Right of Access	Not limited by nationality or residence	Not limited by nationality or residence	Not limited by nationality or residence. But with exceptions	Limited only to citizens
Procedural Guarantees	Personal details of the applicant + reasons for request.	Personal details of the applicant + description of the information desired	Personal details of the applicant + description of the information desired	Only contact details required
	No specific timelines, requests dealt quickly and promptly	Has a longer set of time limits	Special time limits apply to cases of compelling need	48 hour time limit applies to protect life or liberty
	No mention about transfer of requests or consultation with third parties	Direct transfers of request are permitted	No mention about transfer of requests or consultation with third parties. In practice, transfer of requests is common	Allow transfers of request



	Inspection of document provided free of charge. Rates apply when copies exceed nine pages	Contains two separate systems for fees, one for ordinary request and another for more complicated requests	Contains provisions relating to fees, distinguishing between commercial, educational or scientific institutions, and other requesters	Access upon payment of fee, including for information provided in electronic format. No fee for BPL
	When information refused, notice sent giving reasons	When information refused, notice sent giving reasons	Refusal notice includes name of the deciding official, quantity of information denied	When information refused, notice sent giving reasons and how to lodge an appeal
Duty to Publish	No obligation to publish. In practice, information provided via websites	No information regarding publication	Certain information published in the Federal Register, while others available for inspection	Extensive rules on proactive or routine publication and regular updates
Exception	Unique exception - relating preservation of animal/plant species	Contain rare or peculiar exceptions relating to the royal family	Contain rare or peculiar exceptions - relating to information about oil wells	Do contain rare or peculiar exceptions - information which would incite offence

Source-http://www.cuts-international.org/cart/pdf/Analysing_the_Right_to_Information_Act_in_India.pdf

RTI Legislations - A Comparison				
Table 3: India vs South Asia				
Country	Bangladesh	Nepal	Pakistan	India
Constitutional Protection	Protected (by interpreting)	Protected	Protected	Protected (by interpreting)
Legislation	RTI Act, 2009	RTI Act, 2007	FOI Ordinance, 2002	RTI, 2005
Information about private bodies	Private organisation running on foreign or government funding/exchequer; organisation undertaking public functions under contract with government or public organisation	Body receiving grants from the government; NGO running on foreign or government funding or international organisation	No provisions	Body owned, controlled or substantially financed and NGO funded directly or indirectly by the government; private bodies regulated by public authorities
Proactive Disclosure	Too limited. Allows only four kinds of information voluntarily	Provides for 12 kinds of information voluntarily	Too limited. Provides only five kinds of information voluntarily	Provides for 17 kinds of information voluntarily
Exemptions	20 exemptions	5 categories of exemption	4 categories of exemption + 9 exemptions related to the type of record. 5 additional grounds for refusal	10 exemptions + 1 additional ground for refusal (infringes copyright)
Public Interest Disclosure	No provision	No provision	No public interest override. Government can refuse to disclose in public interest.	Exempted information's can be disclosed if public interest outweighs harm to protected interests



Fee Exceptions	Government in consultation with ICs may exempt from paying fee	No exemption	Fee as it may be prescribed but with aim of providing information promptly and at the lowest reasonable cost	Exempted for those below poverty line. Also free if the public authority fails to comply with time limits
Urgent Request	Relating to life and death, arrest and release from jail. Within 24 hours	Relating to defence of human life. Within 24 hour	No Provision	Relating to life and liberty of a person. Within 48 hours.
Protection for Whistle-blowers	No protection to whistle blowers. Protection to officials for anything done in good faith under the Act	Partial protection provided	No protection to whistle blowers. Protection to officials for anything done in good faith under the Act	No protection to whistle blowers. Protection to officials for anything done in good faith under the Act. However, the Public Interest Disclosure (Protection of Informers) Bill 2010 is before the Parliament.

Source-http://www.cuts-international.org/cart/pdf/Analysing_the_Right_to_Information_Act_in_India.pdf

8.3 RTI Foundation of India

The preamble of the RTI Act gives information to provide transparency to the poorest people of our country. It should be a helpful weapon to fight against exploitation. Today most of the youth of our country uses the Internet. They get information about job vacancies and need not bribe to get jobs. Even many people in the villages have begun to use Internet effectively and can bring freedom to their lives. We can use this technology to empower ourselves and motivate others. This Act allows people to get information without requiring explaining of the reason why they want this information. In this way, with this tool, anybody can fight against corruption. We have the ability to prevent whatever happens or disturbs us. All we need is to know how to write and to spend INR10.

What is Information?

Any form of material can be considered as information. It includes reports samples, circulars, e-mail, press releases, opinions or any data material in electronic form, tapes, videos etc. The applicant is not required to give any personal details about his family or job etc. If the person is from below poverty line (BPL) they are not required to pay the fee. Just as information is a threat to absolutism, secrecy weakens democracy. In India the Freedom of Bill was introduced in the Parliament in 2002. It came into existence in the year 2005, as an end to the unscrupulous inaccessible information system.

8.4 Right to Information movement in India

Genesis of RTI in India

The RTI movement was first started in Rajasthan by the Mazdoor

Logo

A very simple and iconic logo.

A sheet of paper with information on it, and the authority's figure behind it. It provides the information.

This represents the two key stakeholders in the process of sharing information under the RTI Act.

The lines of information on the sheet of paper are rendered in a manner that makes it look transparent, showing through the form of 'i' from behind.

The solid form of 'i' is a very simplistic portrayal of the human form and can also be related to the 'I' for information.

The bright blue colour stands for transparency and purity (free from malpractices) of process.





Kisan Shakti Sanghathan (MKSS), an organization founded by Aruna Roy, an IAS officer who left her job to actively involve herself in this movement in 1990. In early 1990s the famous Mazdoor Kisan Shakti Sanghathan (MKSS) an NGO located in Rajasthan began a movement to bring transparency to village financial accounts. The MKSS declared a prolonged struggle for the access to the records of expenditure at the local level on the construction of schools, dispensaries small dams and community centers. The villagers knew that the funds had been misused because the school buildings were roofless as well as without walls, dams were incomplete, dispensaries and community centers did not have doors or windows. The **Mazdoor Kisan Shakti Sanghathan (MKSS)** led the people to ask for the copies of bills and vouchers of persons who had been paid wages mentioned in the list. Initially, the Chief Minister and the government officials had given an assurance that they would be provided with the information but they did not adhere. Ultimately the MKSS could manage to get some information on it. This information was then cross-checked at *Jan Sunwais* (public hearings) against actual testimonies of workers. The success of the MKSS became a source of inspiration for activists in other parts of India and led to a broader discourse on the Right to Information in India.

Read and Reflect

Aruna Roy (born 26 June 1946) is an Indian political and social activist who founded and heads the Mazdoor Kisan Shakti Sanghathan ("Workers and Peasants Strength Union"). She is best known as a prominent leader of the Right to Information movement through the campaign which led to the enactment of the Right to Information Act in 2005. She has also remained a member of the National Advisory Council.



Smt. Aruna Roy

The RTI Act aims to bring about greater transparency and efficiency in administration and eliminate corruption. It ensures public involvement in the process of decision-making.

This Act also shows the vital role of the citizens in sensitizing the parliament regarding the need to enact a law. The Right to Information is often called the Oxygen of Democracy. The Right to Information is beneficial to the government too. Openness and transparency in decision-making help in developing the people's trust in the government. The Right to Information Act, 2005 is one of the most important laws to be passed since Independence. The Indian Government passed the Right to Information Act in 2005, to give people access to official information. The Act sets down obligations on the State as well as Central Governments for its implementation and for setting up monitoring mechanisms.

Source- live.dbpedia.org/page/Aruna_Roy

8.4.1 Constitutional Provisions of RTI

The Constitution of India has guaranteed the Right to Information as a fundamental right, which guarantees provision of information for the protection of the right to life and liberty. Thus it has been included in Article 21. As information is necessary to formulate, express dissent or support opinions, on any matter, it is included in the Article 21.

Appropriate Government is one which is established, constituted, owned, controlled or financed by directly or indirect funds provided by:

- (i) Central Government or the Union territory administration.
- (ii) The State Government, the State Government.





- (iii) The Speaker of the House of the People or the Legislative Assembly of a State or a Union territory or the Chairman of the Legislative Council of a States.
- (iv) The Chief Justice of the Supreme Court
- (v) The Chief Justice of the High Court.
- (vi) The President or the Governor.
- (vii) The administrator appointed under article 239 of the Constitution.

8.4.2 Salient provisions of the Right to Information Act 2005

The Right to Information Bill was passed in the year 2004, but it was enforced on 21st June, 2005. This Act gives the provision to the citizens of India to access information from the public authorities. It therefore requires Public Authorities to maintain all records properly. They are also required to maintain their catalogues and indexes, which should be computerised, so that they can be accessed within a reasonable time through a network all over the country.

It also ensures that Public Authorities declare and publish the following:

1. Details of functions and duties of its organizations.
2. Details of powers as well as duties of its officers and employees.
3. Its decision making process and procedures.
4. The rules and regulations set up by it for discharging its functions.
5. Its statements regarding its documents.
6. Its rules, regulations, instructions, manuals and records.
7. The details of any arrangement done with representatives of public or public policies.
8. Details of boards, council, committees and other bodies set up for the public.
9. A directory containing details of its officers and employees
10. Monthly remuneration and compensation provided to its officers and employees.
11. Details of finance allocated to its agencies alongwith details of all plans, expenditures and disbursements.
12. Details of execution of subsidy programmes, alongwith money allocated and the details of beneficiaries.
13. Details of recipient of concession, permits or authorisation granted by it.
14. Particulars of information held by it in an electronic form.
15. Details of facilities for obtaining information by citizens.
16. Directory including designations and other details of all Public Information Officers.

Objectives of RTI Act

1. To set out a practical regime of right to information for citizens
2. To secure access to information under the control of public authorities
3. To promote transparency and accountability in the working of every public authority.
4. To increase citizens' awareness and ability to exercise their other rights.
5. To equip them to participate meaningfully in the development process.

Read and Reflect

Key Attributes of Good Governance

- Transparency
- Responsibility
- Accountability
- Participation and
- Responsiveness (to the needs of the people)

States which passed Right to Information laws were:

- Rajasthan, Karnataka 2000
- Delhi 2001
- Maharashtra, Assam 2002
- Madhya Pradesh 2003
- Jammu and Kashmir 2004

(source: www.podcast.cg.gov.in)



17. Other information prescribed; which should be updated every year.

Thus Public Authorities are obliged to publish all essential facts related to important policies and reasons for their administrative decisions. Every citizens of India has the Right to Information. It can be obtained by submitting a simple application with a nominal fee. Thereafter the public authority is bound to provide the information.

8.4.3 The Exceptions of RTI

Section 8 (1) of RTI provides details of conditions to be exempted from providing information, which are as follows:

- a. Any information affecting the Sovereignty and Integrity of the country.
- b. Information which is prohibited by the court.
- c. Privileges of Parliament or State Legislative
- d. Information affecting the commercial values, trade, intellectual prosperity or Competitive position of any individual.
- e. Information regarding judiciary relationship
- f. Information received from any foreign Government
- g. Information affecting the safety any individual.
- h. Records and information of Cabinet.
- i. Relevant information after the matter is closed.
- j. Information directly concerned with Income Tax
- k. Information endangering the security of the country.
- l. Information endangering the strategic, scientific and economic interest of the country.

But if information is of nature which should be disclosed to the Parliament, then it shall not be exempted.

Section 9 provides grounds for rejection to access world involve on infringement of copyright subsisting in person other than the state. But according to Section 10 of the act, even if request for access to information is rejected, it may be provided to that part of the record.

These and some other such assumptions are justifiable. Restrictions imposed by other legislatives are no hindrance in making public records available to citizens.

8.4.4 Central Information Commission

Section 12-14 of the RTI Act provide for setting up of Central Information Commission. The Commission is headed by the Chief Information Commissioner. Apart from him, the Commission comprises of a number o Information Commissioners whose number shall not exceed ten. Similarly, Section 15-18 provides for setting up of State Information Commission. These Commissions act as the Second Appellate Authority and also exercise supervision and monitoring powers over the functioning of Public Information Officers. During the course of their functioning these Commissions and particularly the Central Information Commission, have kept a strong vigil over the functioning of the administrative machinery related to the implementation of the Act. However, their performance has often been restricted by the ever increasing number of appeals and fluctuation in the actual number of Information Commissioners. This has resulted in increase in pendency as well as waiting time for hearing of appeals. As per the annual report of CIC for the year 2011-12, the number of appeals filed, was 15426 in 2008-09. It has increased to 33,922 in the year 2011-12. Although the disposal of appeals has also increased the rate of disposal has been slowly







declining. Presently, the time taken for an appeal to come up for hearing is between six months to about a year.

Table 1: Disposal of RTI Applications

Situation	Time limit for disposing the application
Information on normal course	30 days
Information concerning the life or liberty of a person	48 hours
Information if the application is received through APIO	5 days added to above time periods
If application received after transfer from another public authority: <ul style="list-style-type: none"> • In normal course • Information concerns the life or liberty of a person 	<ul style="list-style-type: none"> • Within 30 days of receipt by the concerned public authority • Within 48 hours of receipt by the concerned public authority
Supply of information by organisations specified in the second schedule: <ul style="list-style-type: none"> • If information relates to allegations of violation of human rights • If information relates to allegations of corruption 	<ul style="list-style-type: none"> • 45 days from receipt of application • Within 30 days of receipt of application
Information relating to third party who has treated it as confidential	Provided after following certain prescribed procedure given in the Act under Section II
Information where the applicant is asked to pay additional fee	Period between informing the applicant about additional fee and the payment of fee excluded for calculating the period of reply

Source: Right to Information Act, 2005

RTI Online

What can you file for?	Filing and Processing	Tracking	Satisfaction
 <p>Filing an RTI application gives you the authority to ask your questions for the government. We handle many different types of applications such as Passport delays, PF related, Life insurance, Land and Property, State and Central examinations, Defence Forces, State and Central banks, amongst others.</p>	 <p>We make it easy for you to file your RTI application. Provide your details and your query and let us do the rest. Your application is carefully scrutinized by our drafting team, we find the correct PIO address and only if we are satisfied by the end product, do we end up posting it to the designated address.</p>	 <p>We provide you with your own personal tracking number so you can track it till its delivery location. The tracking process is hassle free and incredibly easy to use. We at online RTI make it a point that your satisfaction remains paramount, and more importantly, your voice is heard by the government.</p>	 <p>We make it a point that your satisfaction remains paramount and your voice is heard by the government. From a swift drafting and review process to sending you a final draft for approval, we make sure that the application suits your needs, and you can make any final changes, if required.</p>

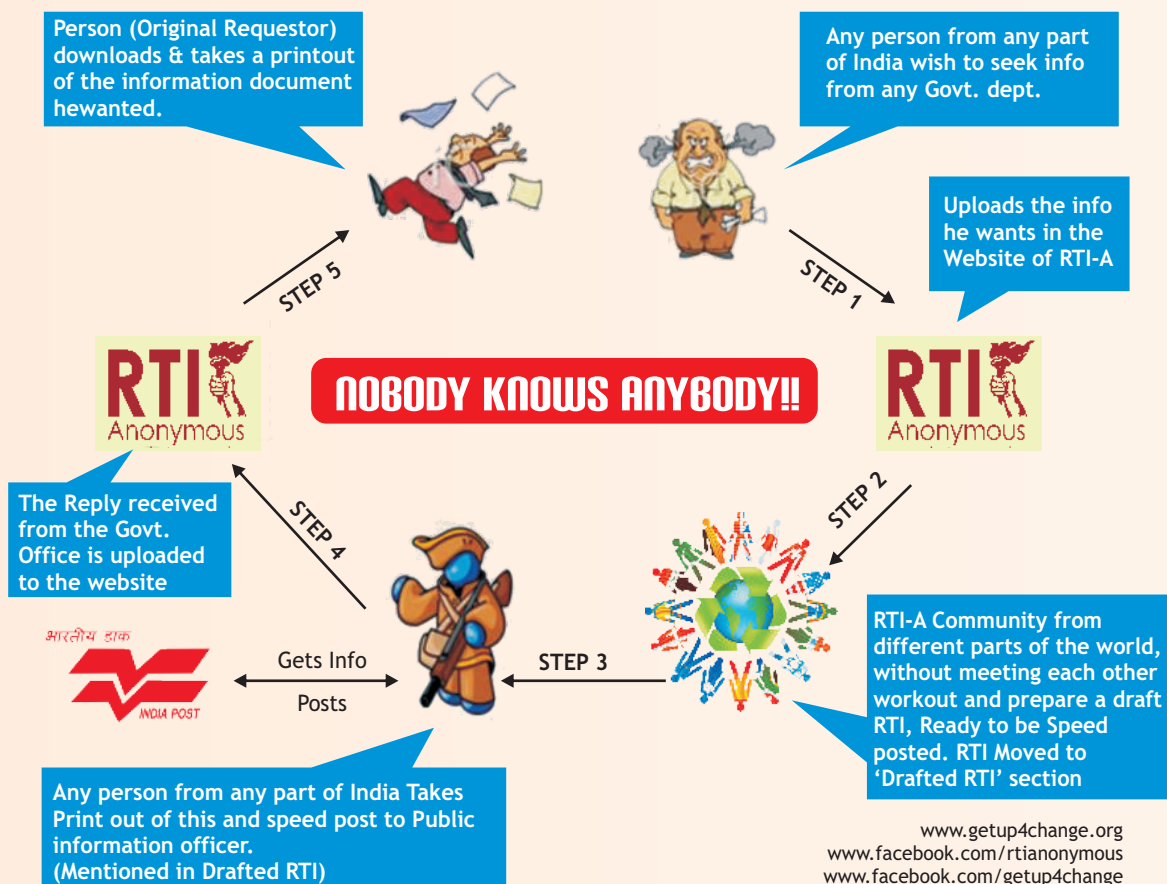
<http://www.rtinaction.com/>



8.4.5 Role of a Public Information Officer

The RTI Act has been established by the Government of India to make the lives of the people smooth, easy and truly democratic. It confers to each citizens of India to know how the tax payers' money is being spent. According to the RTI Act 2005, the citizens have the right to get information from the public authorities. To implement this or bring it into reality a Public Information Officer (PIO) plays a very important role. S/he has to study this Act carefully and understand the provisions. S/he has specific duties while dealing with this act. The PIO cannot create any information or interpret it. S/he is not supposed to give or furnish any replies to the applicant. S/he has a duty to give assistance to the persons who desire to obtain information. Within thirty days of the request, the PIO should provide the informations. If it concerns the freedom or life of a person, then the information should be provided within 48 hours. A PIO should prove that he is responsible and his actions are in good faith.

If the person is denied or refused to access to any information under the RTI Act, or he has been given false or misleading information he can file a complaint to the Central Information Commission(CIC). This Commission has the ultimate authority to implement the Act. Their functions include such as supervising and to act as an external independent authority. At the time of decision the CIC can take disciplinary actions against the PIO. This Commission is constituted by the Central Government. It includes one Chief Information Commissioner and 10 Information Commissioners appointed by the President of India. The disclosure of any information that is likely to affect the sovereignty and integrity of India, the security of the State, or friendly relations with foreign States, is punishable by this Act. Thus in the name of sovereignty, information is kept in secrecy.





Read and Reflect

Two days before the death anniversary of her husband Ashok Kamte, who was killed in the 26/11 attacks, Vinita Kamte has launched a book, 'To the Last Bullet'. The book, co-authored by a former journalist Vinita Deshmukh, was launched at the Taj Mahal Hotel, one of the sites of the attacks. The research and writing of the book took four months. It gives the details about the IPS officer's early days and his various postings and has made use of the Right to Information Act to Investigate what actually transpired during the last few hours of his life.

"It's shocking that even her status of an IPS officer's wife did not allow her to get a copy of the post-mortem report of her husband.

It is only when a person shifts the coverage from personal to public that it benefits the larger public. She moved much beyond her role as a wife and without anger tried to probe with RTI as a weapon on what is wrong with the system," said RTI activist Aruna Roy.

Vinita Kamte, said that it was the RTI that finally gave her the right answers on the events and incidents that led to her husband's death. "I was in conflict if I should write about a system that my husband loved or write about a system that has so many shortcomings. Here were officers whom he respected all his life and who sat stonewalled to the information to the circumstances of his death. I needed the world to know about it, that these men did not act in haste," said Vinita about on the idea behind the book.

Source: www.indian express.com

8.4.6 Merits of the Right to Information Act

1. It increases the accountability of the government.
2. It reduces corruption.
3. It increases the transparency and controls the work.
4. People get information about all public agencies.
5. It solves the complaints quickly.

8.4.7 Demerits of RTI Act

1. The major problem is the cold response for the citizens.
2. An average applicant has to wait more than seven months to be heard. Sometimes it reached to two years.
3. CIC (Central Information Commission) refuses to impose penalties and thus the government officers are not scared to deny the information.
4. Another main hindrance is the lack of knowledge and awareness.

8.5 The Role of RTI in Contemporary India

Every democratic country has admitted the need to give information to their citizens on a regular basis. The spirit of the RTI Act recognizes that in a democratic country it cannot be denied to both parties. For the last 60 years the citizen of our country have had to accept the treatment meted out to them by those in power. The preamble of the RTI highlights the empowerment of the citizens.

Read and Reflect

"The largest democratic nation, India has survived all vicissitudes, turbulences of all kinds over the last half century and more. In that context, the bringing into being of the RTI has been an important milestone. The Act that came into being last year assures every citizen the right to know what the citizen should, and throws open the system of governance to total transparency and therefore inescapable accountability"

-Dr. APJ Abdul Kalam

Inaugural Address at the National Convention on RTI 13-10-2006:
New Delhi



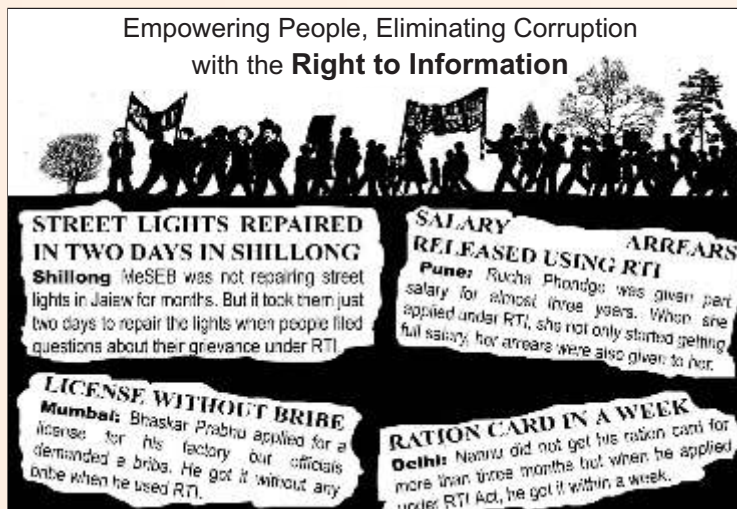
Every citizen now has been given the same ability to get information which was only accessible to the legislators. This should help the poorest of the country and is strong enough to attack corruption from its roots.

Corruption has reached even the highest strata in our country but with the help of the RTI we shall be able to sweep it away from the lowest level onwards.

In 2012 corruption in India declined but was not able to set up a system of good governance. The

RTI Act has the scope for healthy development and good governance. To implement the Act, the society should strengthen their knowledge as well as increase the accountability of the public bodies.

The activists would have to make a tremendous effort and oppose the history of corporate arrogance of established corporate giants and industrialists. It has been reported that a group of government departments and important post holders have exempted themselves from the reach of RTI through its loopholes. The public has raised its voice against the loop holes and drawbacks and have asked for the protection of the applicants. It also suggests maintenance of easily comprehensible and unambiguous records.



Read and Reflect

A detailed empirical research in 2007-08, focusing on 22,728 households living below the poverty line, found that they paid about 9000 million in bribes to basic and need based public services.

8.6 Conclusion

The main aim of the RTI is to advance as well as advocate unambiguity and accountability of the country's administrative system. Access to information is essential to this end and is recognised to be basal requisite to the running of a genuine democracy. The RTI empowers citizens to receive any required information from any public authority or organisation, thus making the authorities more accountable.

The discussion and debates on the effectiveness of the RTI shows that there is a consensus on the fact that implementation still needs to be worked upon to achieve its full potential.

It is also necessary to educate the masses regarding the effective use of the Act.

Unit End Reflections

Comprehension Questions

1. What is RTI?
2. Why do we need the Right to Information?
3. 'Right to Information is not absolute'. Explain with examples
4. Describe the development of RTI Act in India.
5. Elaborate the salient features of Right to Information Act 2005 of India.





6. Discuss the merits and demerits of the RTI Act of India.
7. Write the importance of MKSS movement in India.
8. Describe the process of filing on RTI.
9. Describe the role of Central Information Commissioner (CIC) in implementation of the provision of RTI Act of India.
10. You have applied for a passport for two months back and are still awaiting for a call or some correspondence from the passport office. In the mean time you have persistently calling the authorities and have now decided to file an RTI online. Mention the steps you will follow for the same.

Case Studies

Case Study 1

Mr. Sharma lives in Delhi and has a ration card on which he is able to procure sugar, rice, cooking oil and wheat at a fair prices shop through the Public Delivery System (PDS)

For the last three months he has not been able to get sugar and rice on the grounds that there was scarcity of supply of items.

Finally fed up after many visits, Mr. Sharma decided to complain to the Food and Civil Supplies Department. They said that he should complain consumer forum.

Finally, Mr. Sharma got in touch with the PIO and asked for details of the quantity of items provided by the government for distribution through this ration shop.

Answer the following questions

1. How can the PIO help Mr. Sharma?
2. What are the remedies available to Mr. Sharma under the RTI Act 2005?
3. What should be the steps Mr. Sharma takes for redressal of his problem?
4. Find out the criteria to get ration card
5. Visit a nearby Fair price shop in your group. Find the difference in cost of sugar, wheat, cooking oil and rice in the shop and under the PDS system. For your knowledge, find out the system in the shop.

Ask the shopkeeper the following questions:-

1. Does your shop sell groceries under the PDS system?
2. Do people without ration cards come to your shop to buy groceries?
3. How often do you fail to deliver groceries under the PDS system due to shortages?

Case Study 2

Anita has enrolled for the P.G. Diploma in Management offered by XPDMI Institute affiliated to a University, which receives funds from the University Grants Commission. The final examination for the students in their second year is conducted by the University, even though the mid-term exams are the responsibility of the Institute - which is a privately funded entity. The institute has to submit all relevant records about the mid-term examinations to the University. Anita wants to know about the norms laid down for evaluating the answer sheets of one of her mid-term examination papers and submits an RTI application to the Principal. The Management tells her that the Institute is a private entity and is not bound by RTI Act, 2005.

A friend suggests that she should apply to the PIO of the University and that there is a chance that she



might get the relevant information. The friend also suggests that she should first find out if the information she is looking for is disclosed proactively by the University.

1. Is Anita's friend's advice correct? What provisions of the RTI Act, 2005 apply? Answer in your own words
2. Can the PIO reject Anita's application on the grounds that even though the information is held by the University, it cannot be given since it pertains to a private entity? Give reasons in support of your answer.
3. Should the Appellate Authority notify the husband before taking a decision? Justify your answer in the context of stipulations of the `RTI Act, 2005`.
4. Should the Appellate Authority find the reason for asking information in such cases? What does the `RTI Act, 2005` say about this?

source: right-to-information-act-2005.blogspot.in/2010_11_01_archive.html

Case Study 3

After the completion of all the bidding formalities and award of a contract, one of the bidder felt aggrieved, thinking that his tender had been disqualified arbitrarily by the city's Urban Development Authority. He filed a request under the `RTI Act, 2005` and asked for the details of the tender evaluation procedure. The PIO denied the information saying that tender evaluation and related decision making processes are confidential and cannot be disclosed.

- (a) Is the PIO justified in this decision? Why? Answer in your own words.
- (b) In the appeal, the complainant brought to the notice of the Information Commission that the PA has been unfair in the selection of the tender. Should the tender process have been transparent or is it that the decision / discretion of the concerned authority cannot be subjected to scrutiny? Cite relevant provisions of the `RTI Act, 2005` in support of your answer.

Source- right-to-information-act-2005.blogspot.in/2010_11_01_archive.html

Case Study 4

Ms. Prasanna complained about an illegal unauthorized construction on her property to the Municipal Corporation, Kottayam, but there was no response on her complaint. She decided to enquire about what action was taken on her complaint and / or whether she needs to make a representation to another authority to get her petition heard and resolved. To her dismay, however, she found out that the Corporation had not disclosed / displayed the name of the PIO concerned. Nobody in the Corporation knew who the PIO was.

- (a) What step(s) should Ms. Prasanna take in the exercise of her right to information so as to get the information she is looking for?
- (b) Where do you think has the Public Authority concerned erred with respect to compliance with the provision(s) of the `RTI Act, 2005`? What action is liable to be taken against the PA and by whom?

Source- right-to-information-act-2005.blogspot.in/2010_11_01_archive.html





CHAPTER 9: HUMAN RIGHTS IN CONFLICT AND POST-CONFLICT SITUATIONS

Armed conflicts pose the most serious threat to international peace and security in the contemporary world. These occur not only between various nations but also within the boundaries of individual nations. Infringement of human rights during internal conflicts often leads to serious humanitarian emergencies and have resulted in millions of deaths in the past. Frequent armed conflicts result in state fragmentation, violation of local and international laws, and loss in effectiveness of the legal structure and traditional authorities. These also deprive the common people of basic facilities of food, clean water and health services. Consequently, armed conflicts render millions of people homeless thereby leading to their forced dislocation in large numbers.

The devastation and suffering caused by conflicts is visible in the large number of deaths as well as in the heinous abuse of the fundamental rights during armed conflicts. Basic human rights are impinged due to large scale massacres, attacks on civilians, restriction of freedom of movement, forced relocation, denial of asylum, prohibition to return to one's homeland, starvation, detention and torture of prisoners. Denial of basic rights for food, housing and respect for life, discrimination and exclusion from decision-making processes of society are the root causes of many crises today. Armed conflicts and terrorism have been very common in the recent years throughout the world, especially in countries like Sri Lanka, Egypt, Syria, Iraq, Pakistan, Somalia, Libya, Afghanistan, India etc. These conflicts have resulted in the death of thousands of men, women and children.

Armed conflicts pose a grievous threat to the socio-political, economic and civil rights, which are subverted due to the collapse of infrastructure and civic institutions. Instances where women and girls are abused by warring groups and boys abducted to serve as soldiers are rampant. Several civilians connected with conflicts, especially the ones who are detained, disappear each year. They are usually killed and disposed off secretly, thereby causing grievous suffering to many families. In addition, numerous people are imprisoned and tortured. They are either never brought to trial or even if they are, such trials are unjust. During the course of conflicts, homes, schools and hospitals are deliberately destroyed. Entrusted convoys, who try to assist civilians by providing humanitarian aid, are attacked to ensure that they do not reach the needy.

The need to protect persons and property during armed conflict and to restrict the methods of warfare has culminated in the development of the International humanitarian law. International humanitarian law includes provisions of the Geneva Conventions, the Hague Conventions, customary international law (general and consistent practices of State that have been accepted as law, sans any formal treaty). In principle, it has emerged from two main sources: the Law of Geneva - law to Protect the People during war and the Law of The Hague - law to regulate the war proper / warfare.

Implementation of these laws requires support from an agency dedicated to the purpose of upholding the dignity of individuals the world over. The Red Cross, formally known as the International Red Cross and Red Crescent Movement, is one of the first international organisations developed for humanitarian work related to international and internal armed conflicts.

International humanitarian law is heavily drawn from by the UN Security Council while framing resolutions, by the United Nations Human Rights Council in its discussions, by Governments during diplomatic discussions, by the paramilitary for training of soldiers, in reports of non-governmental organisations and in political pamphlets of opposition movements. It is the document most referred to during armed conflicts by rebels, politicians, diplomats, activists, demonstrators and journalists alike.

In the recent years international organisations like the UN General Assembly and the Commission on Human Rights and the Human Rights Council have ensured that the parties involved in armed conflicts are bound by legal obligations to protect the basic rights of people. The International human rights law and



the International humanitarian laws, both in their distinct ways, guarantee the protection of human rights to all without any discrimination between non-combatants (civilians) and active combatants.

9.1 What is Conflict?

Conflict can be defined as a state of dispute or fight arising between two or more factions owing to difference in beliefs, or contention over limited resources, wherein the opposing factions clash against each other with the objective to uphold their ethos and interests.

Do Human Right violations cause conflicts?

a. Violations of Economic and Social Rights lead to Conflicts

Economic and Social Rights, when greatly violated, often lead to conflicts. This occurs especially in cases of absolute and relative poverty. Absolute poverty refers to the state in which individuals are deprived of basic subsistence rights related to adequate nutrition, water, shelter, sanitation, education, and healthcare. Relative poverty refers to the state in which individuals or groups constantly face inequalities in the economic and social arena.

Both absolute and relative poverties generate grievances that lead to frustration, anger and unrest among people and ultimately culminate in conflict. Individuals suffering poverty are usually deprived of the basic rights of adequate food, water, and shelter. Their life becomes so miserable that they begin protesting, often in a violent manner, against their government or other power-holders, for redistribution of wealth and in an effort to retain their dignity, they become more miserable. The authorities retaliate by trying the utmost to curb such a rebellion, thereby resulting in conflicts. Moreover, poverty and deprivations render people more vulnerable to be instigated against the authorities by third parties with their own vendetta, hence causing serious disagreement in the region.

Although equality and non-discrimination are the basic tenets of International law for human, millions of people all around the world are still deprived of social and economic rights. Alarmingly this has increased conflicts all over the world. According to the studies of *Human Development Index (HDI)*, most countries in the world have experienced at least one year of internal conflict or war in between the years 1990 and 2003.

Read and Reflect

Human Development Index

Human Development Index is a composite measure of a nation's achievements in the sphere of human development of its citizens, within a period of time. The measure of the degree of human development is concluded on the basis of three factors:

- a) The ability to lead a healthy long life (measured by life expectancy during birth);
- b) Educational Achievement (measured by the gross enrollment ratio in the primary, secondary and tertiary schools and also the adult literacy rate);
- c) A dignified standard of living (measured by GDP per capita in Purchasing Power Parity expressed in US\$ [PPP])

HDI indicators do not differentiate between absolute and relative poverty, but are reasonable approximations of a State's respect for social and economic rights.

b. Discrimination causes Conflicts

Discrimination effected by a State is considered to be a violation of human rights by every human right instrument. It is one of the main factors that lead to conflicts. Inequalities arise





due to discrimination. This further triggers acute grievances amongst the groups being discriminated, which ultimately lead to conflicts and acts of violence. For example, the discrimination between the whites and the Africans sparked political mobilization and civil violence during the civil rights era in South America.

Discrimination is one of the main factors leading to conflicts because it transforms inequalities into antagonistic group identities. When various individuals face similar kind of discrimination, powerful collective grievances emerge. This inimitably facilitates in the formation of antagonistic groups, which may lead to collective action (that may be violent) to fight against discrimination. Many times discrimination is organized along ethnic lines leading to ethnic conflicts. It has been observed that ethnic conflict is the key factor in the development of modern State discrimination. This is because ethnic groups often struggle to overtake the key State resources like legislation, territory, national symbols, physical security, social security, political representation, and taxation. In addition to this, the State allocates benefits unequally, such as access to jobs, education, contracts, licenses and subsidies. State discrimination based on any one of these factors tends to develop grievances, which have a greater potential for violence.

From the human rights perspective, discrimination violates the basic human right of equal access to resources. Yet there is a positive side of preferential treatment too. Group benefits provided by States sometimes may redress historical injustices or may provide peaceful alternatives to conflict. Therefore in certain situations group benefits may be beneficial. Social justice and human right advocates do not object to preferential treatment in certain situations, such as in the case of preferential treatment to minorities, all over the world.

c. **Violations of Civil and Political Rights cause Internal Conflict**

The importance of socio-economic factors cannot be denied but intellectuals claim that it is difficult to identify one or more socio-economic factors solely capable of motivating an internal conflict, as various social groups in a society rarely have a homogenous social base. On the other hand it has been observed that violation of political rights have led to serious internal conflicts and have triggered several revolutions. Therefore, while socio-economic conditions rarely trigger violent conflict on their own, violations of personal integrity or security rights, such as indiscriminate killings, systematic torture, disappearances, or wide-scale imprisonment may lead to serious internal conflicts.

It has been observed that the main factors leading to revolutionary movements are curtailing political opportunities or other forms of State repression. In cases when the families and friends of ordinary people become the targets of violent repression and they are unable to find other means of political expression, they join and support revolutionary movements available to them.

Thus although individuals and groups may unwillingly tolerate economic inequality and discrimination for years, they are more likely to respond with violence against State repression. Therefore State repression is one of the main factors that may lead to internal conflicts because it can transform latent grievances into active antagonisms, providing the persecuted with strong motivations for violence. Personal integrity rights are not only violated by the Government, but may also be triggered by non-state armed groups by making extreme demands or by using violence. This behaviour of such non-state groups may invite government repression and may lead to conflict.

Read and Respond

Have you heard of the term 'non-state armed groups'? Discuss any 4 or 6 of them. Can you identify some of the recent incidents involving non-state armed group?



9.1.1 International Armed Conflicts

International Armed Conflicts involve different States. These occur when one or more State(s) resort to deploying their arms against another State, and may vary with regards to the reasons or the intensity of confrontation. Cases of violent decolonization are also considered to be International Armed Conflicts, as these involve two different countries - the colonizer nation and the colonized nation. Often this distinction is always not applicable. Thus in the international arena the captured freedom fighters of 'wars of national liberations' are granted the status of 'prisoners of war'.

It was observed that the number of internal armed conflicts increased drastically during the Cold War but declined thereafter due to reduction in flow of military aid to the governments as well as opposition movements. In spite of this, several enormously destructive conflicts are still reigning all over the world and several new wars may soon erupt. The worst thing about conflicts is that even after they are resolved, their painful after-effects linger on due to distorted economies, devastated health care systems, and corrupt or ill-equipped governing structures. Although the numbers of conflicts have certainly decreased as compared to the previous decades, there has been a rise in political violence all over the world.

9.1.2 Non-International or Internal Armed Conflicts

Internal Armed Conflicts are armed confrontations between organised groups, mostly governmental forces and non-governmental armed groups, within the same State or nation. For any armed confrontation within a country to be classified as Internal Armed Conflict, it must reach a minimum level of intensity and the parties involved in the confrontation must show a minimum level of organisation.

One of the most accepted definitions of internal armed conflict comes from the Peace Research Institute, Oslo and its research partner, the Uppsala Conflict Data Program. It defines '*internal conflict*' as a "contested incompatibility" between the Government of a State and organised opposition group(s) regarding government or territory, "*where the use of armed force between the parties results in at least 25 battle-related deaths per year, civilian and military*". It further extends that such intrastate conflicts of larger magnitude, which result in at least 1,000 battle-related deaths per year, are termed as 'internal wars' or civil wars. It is important to note that war-related deaths from disease, hunger, and displacement are not included in this calculus of "battle-related deaths", although these indirect conflict deaths are often greater than those directly caused by the violence.

Read and Reflect

Six months ago, 55 year-old Misho was contemplating an early retirement. Today, all she wants is a roof over her head. She is one of the tens of thousands of people whose lives were uprooted when intercommunal violence broke out in western Myanmar's Rakhine state in June. "I was cooking in the afternoon when people started shouting 'Fire! Fire!'," she recalls of that fateful day, "I ran out without slippers and cut my feet in a field that had broken glass. We spent the night in a mosque. I thought I was going to die of fright."

Overnight, the Muslim widow lost her eight-year job as a cook and cleaner with a local Rakhine family. She also lost the food stall she ran on the side, and the egg-laying chickens she raised. Her worldly possessions now consist of a blanket and sleeping mat, while home is a tent she shares with her daughter in the Chaung camp on the outskirts of the State capital, Sittwe.

"It's cold at night and I don't have an extra set of clothes," Misho says, before acknowledging, "we





were lucky to come here early, because later there was no more space."

Recent arrivals include those who fled renewed unrest in October as well as displaced people who had been living with host families that could no longer sustain them. Those who don't fit into existing camps have been erecting makeshift shelters by the side of the road.

As the lead organisation for protection, shelter, camp coordination and camp management under the interagency response to this emergency, UNHCR has been working with the government to find suitable land to set up tents for these groups. "The first priority is to make sure there is shelter for everyone," says Maeve Murphy, who heads UNHCR's office in Sittwe. "And as camps are being set up, we work with the authorities to try and make sure they adhere to international standards particularly from the shelter perspective."

In addition to the tented camps around Sittwe, UNHCR is also building 263 temporary shelters this year using bamboo walls and corrugated iron roofs. Each longhouse-style shelter can accommodate eight families. Kyashla, 58, the camp administrator at HpweYarKone camp, lives in a government built long house with 20 of his family members. While the shelter is adequate, other service are lacking in this location that is 45 minutes drive from Sittwe. He wishes food rations could be distributed closer to the camp and laments the fact that his family has not eaten meat or fish since June.

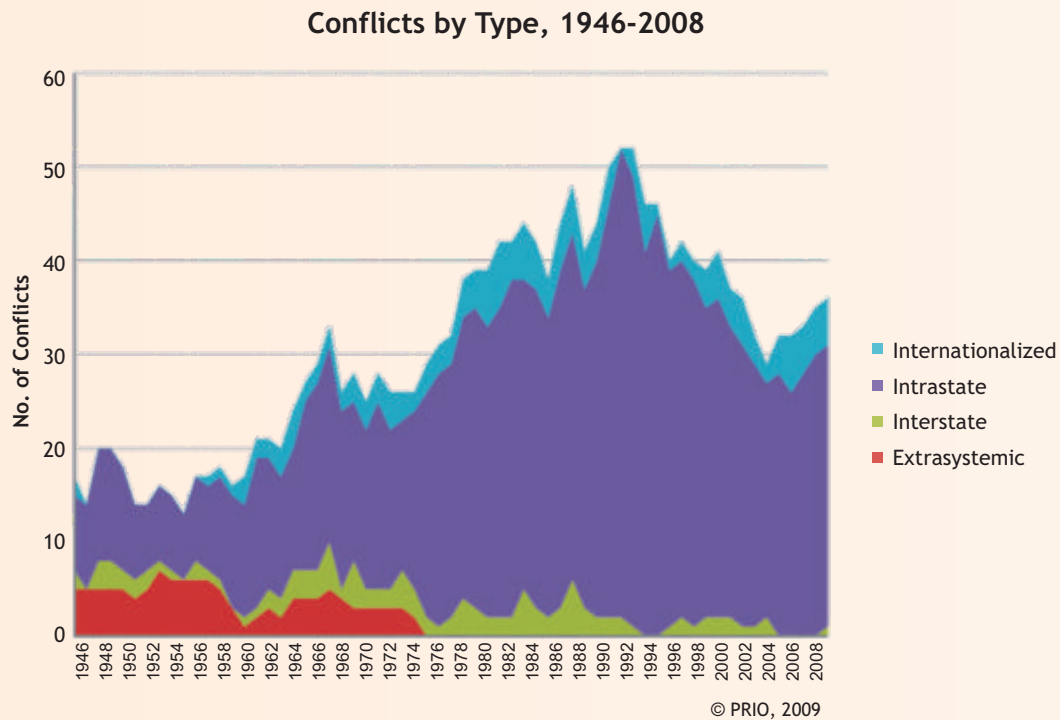
The women in this camp say they need proper bathing areas, hygiene materials, and cooking pots which they're using communally at the moment. Noting that some staff working for NGOs are hesitant to work in certain locations amid continuing communal tensions, UNHCR's Murphy said, "We're continually advocating for better water sources, more sanitation facilities with individual bathing houses for women and for mobile clinics to provide health care."

In another longhouse-style camp called Ma GyiMyaing, the basic services are in place but 61-year old Ngine Saw Htet is still losing sleep. He mourns over his charred house, where only four pillars remain, and the loss of his battery charging shop that drew both Muslim and indigenous Rakhine customers. "The first 10 days I couldn't sleep," he said with furrowed brows. "Now I'm slowly recovering but I still feel afraid when it's quiet. And I worry about the future. I have no job, no income. With no financial support, I cannot start a business. My family is fully dependent on assistance."

Over in The Chaung tented camp, Misho shares the same concerns. "I spend most of my time here praying," she says, "I pray that I can go home as soon as possible, that I can have a safe and proper house, that I can work again. I pray for peace with the Rakhine people, to live peacefully with my neighbors."

Source: UNHCR Global Report -2012





9.1.3 What is Protection?

Protection can be defined as the steps taken to ensure that the basic human rights are provided to individuals, as outlined by the relevant bodies of law, such as the International human rights law, the International humanitarian law and the Refugee law.

Protection of basic human rights should be viewed as:

- ❑ An objective;
- ❑ A legal responsibility; and
- ❑ An action

The objective of protection of basic human rights should include complete respect for the rights of all individuals as per the guidelines of the International law, without any form of differentiation. The protection of basic human rights should not only include rights for physical security and survival but also various other rights like the civil rights, political rights, right to freedom of movement, economic rights, social rights, cultural rights, right to education, right to health, etc. to ensure a good life.

It is the legal responsibility of the State and its agents to ensure the protection of basic human rights of the citizens. Even during armed conflicts, it is the duty of the State to protect the human rights of all parties involved in the conflict, without any form of discrimination. In spite of this, when the States and other authorities are unable or unwilling to fulfill their protection obligations; it is the duty of





the International human right organisations and other Humanitarian organisations to step in.

Protection of human rights should be viewed as an activity, because it can only be ensured through action, which is extremely necessary for the fulfilment of rights. The three basic types of activities that can be carried on consecutively for the protection of rights are:

- ❑ **Responsive:** to prevent or stop defiance of human rights
- ❑ **Restitutive:** to find remedies for violations, in a justified and lawful manner
- ❑ **Develop an atmosphere:** to inculcate respect for rights and legal rules

Why do we need to protect the rights of the forcibly displaced?

It is the liability of the State to protect the basic human rights of all its citizens. However, many a time nations are unable or unwilling to fulfil this liability and follow discriminatory policies that compel certain faction of their citizens to flee their homeland and find solace in a foreign nation. In such circumstances, when these refugees are denied protection by the government of their nation, the International human right organisations are obliged to provide them protection.

9.2 Worldwide Forcibly Displaced People

During World War I, a large number of people fled their homelands in search of refuge. The Governments of various countries responded to the needs of the refugees by drawing up international agreements and travel documents for the people affected. Later during World War II, the number of refugees all over the world increased drastically because millions of people were forcibly displaced, deported or resettled.

In the 20th century, the international community worked on the development of guidelines, laws and conventions for the protection of the human rights and in order to ameliorate the condition of the refugees. The first step in the direction was taken by the League of Nations in 1921. In 1951, the United Nations convened a conference in Geneva, wherein the *Convention Relating to the Status of Refugees* was adopted. This international treaty explicitly defines the categories of persons who qualify as refugees; elucidates on the legal protection, State assistance and social rights they are entitled to; and outlines the obligations of refugees towards the host countries. But the Refugee Convention of 1951 had its own limitations as it was designed to protect only the European refugees after the World War II. This was later amended by the Protocol of 1967 which expanded the scope of the protection of the human rights of refugees to the entire world.

These instruments further inspired many regional instruments in the future. Some of these regional instruments were the **1969 OAU Refugee Convention of Africa** and the **1984 Cartagena Declaration of Latin America**. This further led to the development of a common asylum system in the European Union. The **Convention of 1951** and the **Protocol of 1967** are still regarded as the cornerstone of refugee protection in the contemporary world.

9.2.1 Refugees

Refugees are people who are compelled to abandon their home countries to escape persecution, or other adverse political, religious, military situations. They must not be confused with the economic migrants who move their residence to better their prospective earnings or the internally displaced persons who due to persecution shift residence but remain within their State boundaries. Refugees are in such a predicament because they do not have support of their own State and very often it is their own State that is persecuting them. In such a scenario, they try to survive in other States despite the absence of any civic rights or legal way to earn a living.

The meaning of refugees has been defined in a number of ways from time to time but the increased



international concern for the plight of refugees has led to the development of a common definition of a refugee. The Refugee Convention of 1951 has defined refugee as a person who:

"Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country or return there because there is a fear of persecution..."

Source Country of Refugees	Main Countries of Asylum	Refugees
Afghanistan	Pakistan / Iran / Germany	2,586,200
Somalia	Kenya / Yemen / Ethiopia / UK / Djibouti	1,136,700
Iraq	Syria / Jordan / Germany / Iran	746,200
Syrian Arab Republic	Albania / Bosnia & Herzegovina / Macedonia / Turkey	729,000
Sudan	Chad / South Sudan / Ethiopia	568,900
Dem. Rep. of Congo	People's Rep. of Congo / Uganda / Rwanda / Burundi	509,300
Myanmar	Bangladesh / Thailand / Malaysia	415,400
Colombia	Ecuador / Venezuela / US	394,100
Viet Nam	China / Germany	336,900
Eritrea	Sudan / Ethiopia / Kenya	285,400

Ten Largest Groups among 15.4 Million Refugees in 2012

Outlined in Article 1A(2) of the Refugee Conventions, a refugee may be treated as such if the persecution is due to race, religion, nationality, particular social groups or political opinion where:

1. **Race** refers to the ethnic groups and social groups of common descent.
2. **Religion** includes groups of people who share common traditions, beliefs and practice the same religion.
3. **Nationality** refers to the citizenship of an individual. Persecution of ethnic, linguistic and cultural groups within a population also may be termed persecution based on nationality.
4. **Political Opinion** refers to ideas of individuals including opinions critical of government policies which are not tolerated by the authorities.
5. **Social group** includes people who have a common background and share similar habits or social status. This category often overlaps with persecution based on one of the other four grounds. It may include families of capitalists, landowners, entrepreneurs, non-governmental defence forces, etc.

9.2.2 Refugee Status: Criteria for the Provision

The 1951 UN Convention outlines the provisions to identify refugees. It clearly states that protection shall be provided to only those individuals who qualify under these criteria. It also defines the category of people to be excluded from refugee status. These include people who are suspected to:

- ❑ Be engaged in crimes related to war, destruction of peace, hurt humanity or involved in





serious non-political issues.

- ❑ Be engaged in activities which violate the principles of the United Nations.

Procedures Advocated for Determining the Refugee Status

The 1951 UN Convention has shouldered the responsibility of the protection of the rights of refugees in the various States. But it does not define the procedure of determining the refugee status. It allows for any individual or group assessment method to be adopted for this purpose, as long as the method is fair and efficient. To ensure a fair and efficient method for determining refugee status it would be extremely essential for the States to appoint a central authority for the job. This central authority should be equipped with knowledgeable experts, who would design a foolproof procedure for determining refugee status. Besides, the UNHCR is obliged to help the States in developing such procedures.

Moreover, the 1957 European Convention on Extradition guarantees the Principle of Non Refoulement, according to which no State (whether signatory of the 1957 European Convention and the 1967 Protocol Relating to the Status of Refugees, or not) can prevent anyone from seeking asylum in their territory and in no way can force them from returning to the territories where their freedom or life may be endangered.

9.2.3 Rights of Refugees

The Principle of Non Refoulement is one of the fundamentals outlined in the international law for the protection of refugees. Prevention of the coercive return of a refugee to the place where their freedom or life may be endangered is called 'non refoulement' (prohibition to return). This principle is laid out in Article 33 of the 1951 Convention Relating to the Status of Refugees. It clearly states that *"no State shall expel or return ('refouler' in French) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."*

Article 31 of the 1951 Refugee Convention further prohibits the host country from detaining the refugees in any way, even if they seek asylum illegally. This is because the detention may bring back memories of detention or torture experienced in the country from which they arrive. This may lead to emotional and psychological setback for the refugees. The provision also asserts that asylum seekers should not be detained even if they have committed crimes like presenting forged identity papers or destroying proofs of their travel documents.

Articles 12-30 of the Refugee Convention enumerate the rights guaranteed to individuals whose refugee status is validated, as under:

- ❑ The refugees are entitled to the issue of identity papers and travel documents in the host country, for travelling outside the host country.
- ❑ The refugees are entitled to the same treatment and rights that are given by the host country to its citizens. Some of the rights that refugees are entitled to are:
 - Right to pursue any religion or religious education
 - Right to access legal assistance and even courts in the host country
 - Right to pursue elementary education
 - Right to receive all available public facilities
 - Right to a secure life
 - Security of intellectual property, like inventions made by them or trades established by them



- Security of their intellectual, scientific and artistic work
- Right to a non discriminative taxation system
- Right to form or be part of trade unions
- Right to be a part of any non-political organisation
- Right to earn a livelihood
- Right to possess property
- Right to pursue any profession
- Right to self-employment
- Right to shelter or adequate housing
- Right to primary and higher education
- Right to reside in any part of the host country
- Right to freedom of movement within the host country

9.3 Internally Displaced Persons

Internally displaced persons (IDPs) are defined in the *UNHCR Guiding Principles of Internal Displacement*, as follows:

"Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disaster, and who have not crossed an internationally recognized State border."

According to the UNHCR Global Trends report, there were around 28.8 million IDPs and individuals in IDP-like situation dwelling in 26 countries by the end of 2012. Majority of these IDPs are found in Colombia, Syria, Congo, Sudan, Somalia and Iraq.

Internally displaced persons (IDPs) are recognized by two basic circumstances - **Involuntary Departure and Asylum within one's own country's territory**. IDPs are often forced to leave their homes due to adverse circumstances against their free will. This distinguishes them from migrants, who leave their homes of their free will in search of better opportunities. IDPs do not flee to other countries but seek asylum in some other part of their country, to escape the adverse circumstances. This distinguishes them from refugees, who also flee to escape adverse circumstances, but they seek asylum outside their nation.

It is essential to note that the definition of IDPs given under the *UNHCR Guiding Principles* is not a legal definition but is only a generalized one. It only describes the meaning of internal displacement and factors responsible for it, and in no way confers certain legal rights to them, as in the case of refugees. This is due to the fact that in spite of displacement, the IDPs being the citizens of the country are still entitled to the basic rights. Whereas the refugees had to be conferred a special legal status as they were not entitled to the basic rights guaranteed to the citizens in the foreign land, where they may have taken refuge.

The aforementioned definition outlines the main factors that may lead to internal displacement, such as violence, armed conflict, violation of basic human rights, natural disasters, etc. Thus the phrase "in particular", referred to in the definition explains that the list of reasons for displacement could be infinite; while the phrase "homes or places of habitual

Internal Displacement Monitoring Centre (IDMC) is a non-governmental humanitarian organisation that is the leading source of information and analysis on internal displacement.

Source: www.internal-displacement.org



residence" implies not only to houses of individuals but also to the land on which the livelihoods of people (such as nomads or pastoralists) would depend.

The intent of highlighting IDPs in the international circle is not to provide them with privileges over other groups but to help the world understand the risks they face such that corrective measures may be taken to secure the rights of IDPs. IDPs may face the risk of not being able to return to their places of origin due to violence, destruction of their homes, occupation of their homes by someone else, etc. They may also face the risk of not receiving protection from the authorities, or being forced to reside in an unsafe area. A few other risks faced by the internally displaced persons are:

- ❑ IDPs may be in the need of shelter due to loss of their houses. As a result they may sometimes be forced to live in crowded camps or settlements, where their security and rights may be violated.
- ❑ Due to displacement from their land and property, IDPs may lose their means of livelihood, which may lead to a poverty stricken life, marginalization in the society, exploitation and abuse.
- ❑ IDPs may lack the basic necessities such as adequate food, safe water, public facilities, education facilities and health facilities. This may lead to increased hunger, malnutrition and disease.
- ❑ Displacement may lead to broken families and community structures due to separation of family members. This may in turn lead to the abuse, sexual exploitation, forced labour and exploitation of separated and abandoned children, women, older people and disabled people.
- ❑ Important documents, especially identity proofs of IDPs often get lost, destroyed or may be confiscated by someone during the course of displacement. Lack of identity proofs limits the IDPs' access to the basic public facilities and may further increase the risk of harassment, exploitation and detention.
- ❑ Many a times IDPs also face the risk of marginalization, discrimination, hostility, abuse and exploitation in the areas where they seek asylum. Besides, they also face the risk from other IDPs due to competition over scarce resources.

Amelioration of Internally Displaced Persons

The duty of protecting the rights of IDPs rests first and foremost on the Central Authority of the Nation itself. While most States discharge this duty as an integral part of their aims and principles, there often are instances where the government of the State is unwilling or unable to protect the rights of the IDPs. In fact in many cases, the Government instead of helping the people, itself is found to be responsible for displacing them. In order to rectify such situations, the international human rights organisations do not overtake the responsibility of protecting the rights of IDPs from the State concerned. Instead the international organisations, through every possible means, reinforce national responsibility of the State towards the IDPs. For this, the approach followed is to render encouragement and support towards the States for fulfillment of responsibilities towards IDPs.

The Brookings Institution of the University of Bren has developed *A Framework for National Responsibility* that outlines twelve steps for the Governments of the States to address the issue of internal displacement in their country. These twelve steps are:

1. Restrain displacement and curtail its detrimental effects.
2. Raise national awareness with regards to disadvantages of displacement.
3. Maintain statistics regarding IDPs.



4. Provide trainings for raising awareness on rights of IDPs.
5. Develop laws for upholding the rights of IDPs.
6. Establish a National Policy for displacement within the Nation.
7. Denominate institutional focal point on IDPs.
8. Support the national human right organisations to respond to the needs of IDPs.
9. Include the IDPs in the major decision making processes for the Nation.
10. Encourage and develop long lasting solutions for IDPs.
11. Provide the required resources for eradication of the problems regarding internal displacement.
12. Work in collaboration with the international community to address the problem of IDPs.

Rights of Internally Displaced Persons

International human right organisations have not explicitly defined any special rights for the IDPs because being the citizens of the same country in which they seek asylum; they are entitled to all the rights of that country. However, the said organisations ensure that the internally displaced persons uphold their rights without any form of discrimination and are also provided protection by the three main bodies of International Law:

1. International Human Rights Law - *UN Declaration of Human Rights (UDHR)*, *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, *International Covenant on Civil and Political Rights (ICCPR)*
2. International Humanitarian Law, e.g. *Refugee Law-Law of Geneva*, *Law of the Hague*, *Refugee Law*
3. International Criminal Law

The greatest challenge faced by International Agencies, NGOs, and States regarding the IDPs, is to ascertain the needs, rights and protection risks of the displaced. The UNHCR Guiding Principles of Internal Displacement is resourceful in that as it elucidates the rights of the IDPs, the responsibilities of the States towards IDPs and the warranted international and regional approaches towards internal displacement. Though not legally binding on any nation, this indispensably useful and often referred resource is instrumental in shaping national policies. The 2012 Kampala Convention, the first and the latest international treaty that provides protection and assistance to the IDPs in Africa, is a substantial step in this direction. More so, because the Convention covers displacement caused both by armed conflicts as well as environmental disasters.

Read and Reflect

In August 1947, Veera was a 20-year-old Hindu wife and mother, living in the village of Sheikupura (which is now in Pakistan, close to the Indian border). As Muslim fundamentalist hordes approached their home, her husband implored her to kill herself in order to prevent her abuse and defilement. When she refused, he threatened to kill her himself. He hit her and she fell unconscious. Thinking she was dead, her husband departed and the Muslim attackers who arrived left her alone also thinking she was dead.

When she woke up, she found both her husband and child were dead. Devastated, Veera moved to an ashram, where she spent the rest of her life.





9.4 Role of International Organisations in Protecting the Rights of the Displaced

A number of international organisations have been established and numerous provisions adopted for the protection of the rights of Refugees and IDPs all over the world. Some of the organisations working in this direction are:

United Nations High Commissioner for Refugees (UNHCR)

The United Nations High Commissioner for Refugees (UNHCR) was formulated in 1951 for the protection of the rights of the refugees. The foremost aim of the UNHCR is to ensure that people all over the world have the right to seek asylum in any safe nation during adverse conditions. It also aims to assure that they have the right to return home voluntarily. The UNHCR also ensures the promotion of just and effective refugee law all over the world. Recently the UNHCR has adopted another role for amelioration of refugees. In addition to the protection and the promotion of solutions, the UNHCR nowadays fulfils the additional role of coordinating material assistance for refugees, e.g. food, clothing, housing, and the like. The need for material assistance arose because majority of the refugees in the world took asylum in developing countries, who themselves were incapable of providing them material assistance. To assist the UNHCR in the resettlement of rejected asylum seekers and refugees, the *International Organisation of Migration* (IOM) has been formulated.



International Committee of the Red Cross (ICRC)

To assist and protect the victims of war neutrally, an independent humanitarian organisation known as the International Committee of the Red Cross (ICRC) has been functioning since 1863. Its presence is in more than 80 countries of the world. It provides rapid and efficient response to all humanitarian needs of people affected by armed conflict or by a natural disaster and perform due protection and assistance activities to alleviate their situation. It organizes a wide range of services for the victims of war in the form of food aid, medical assistance, visits to detainees, and reunion of family members separated during wars, etc. However since the ICRC was not entitled to provide protection and assistance to internally displaced people, they have provided limited help in this category. Due to the large scale experience of ICRC in the area of providing humanitarian assistance during crisis, the UN General Assembly have been requesting them to carry out humanitarian operations in several parts of the world.

9.4.1 International and Regional Protection Instruments for the Displaced

Over the years, several international legal instruments have been established internationally to protect the rights of the globally people displaced, such as declaration, conventions, protocols, optional protocols, and the like. These diplomatic terms have specific relevance in international law, which is quite distinct from the literal meaning of the words. Every international legal instrument is developed and drafted through a series of discussions and negotiations and are signed by the representatives of the various States, who agree to its terms. The States signing the treaty are obliged to abide by it. Various means are adopted by the States to show their consent towards the treaty-the most common means are ratification or accession. Ratification is the process of showing allegiance towards a new treaty as soon as it has been formulated. The treaty is ratified by



the States who have participated in its negotiation and formulation. Accession is the process of showing allegiance towards a treaty that has already been formulated. The states, who may not have participated in the discussions and negotiations during the formulation of the treaty, may at a later stage 'accede' to the treaty. A treaty becomes applicable only when a pre-determined number of countries have ratified or acceded to the treaty.

The States, at the time of signing the treaty, may make 'reservations' to one or more articles of the treaty, implying that these provisions would be either not abided or abided under modification in the country. Reservations put by a State may be opposed by other states and may have to be withdrawn at times. Once the treaty is ratified or acceded, it also becomes the responsibility of the States to ensure the effective implementation of the treaty in their country, by issuing decrees, amending existing laws or introducing new laws. Many international treaties develop a proper framework beforehand, to review the effective implementation of the treaty.

Some of the International and Regional Protection Instruments involved to alleviate the state of displaced people are as follows:

- ❑ **Universal Declaration of Human Rights**, Article 14 has recognized the right to seek refuge in any safe place during adverse conditions.
- ❑ **Geneva Convention (1949)** protects the rights of civilians during wars. It further reiterates that refugees should not be treated as "enemy aliens".
- ❑ **Convention relating to the Status of Refugees (1951)** was one of the first international documents to protect the basic rights of refugees. It outlined a set of rights which would bring refugees at par with the citizens of that state. It was the first document that stated that the problems of the refugees could be solved via international cooperation, including burden-sharing among the states.
- ❑ **International Covenant on Civil and Political Rights (1966)**, Articles 2, 12 and 13 state that the nations should guarantee the civil and political rights to all the individuals within their territory, without any differentiation. In addition to this, it also ensures that right to freedom of movement is given to all individuals and forbids coercive displacement of people.
- ❑ **Protocol relating to the Status of Refugees (1967)** extended the right to claim for refugee status to everyone and not only to Europeans, as was the custom..
- ❑ **Geneva Protocol-1 (1977)** further protects the rights of the victims of International armed conflicts. It states: *"Persons who, before the beginning of hostilities, were considered as stateless persons or refugees... shall be protected persons..., in all circumstances and without any adverse distinction."*
- ❑ **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)**, Article 3 (2) guarantees the right to displaced persons to seek refuge in any safe place during adverse conditions. It also prohibits forceful return of refugees back to the place where they fear persecution. This convention also established a monitoring body known as the Committee against Torture. This committee has outlined some basic principles

Read and Reflect

Declaration stands for a formal statement or oath that affirms the ethos and intents of the international community.

Convention stands for an international agreement or treaty.

Protocol stands for a treaty that supplements or adds to a pre-existing international treaty. Thus when Conventions undergo amendments, Protocols are formulated.

Optional Protocol stands for an amendment treaty that is legally binding in its own right, implying that it would hold good under international law even in absence of the pre-existing treaty it developed from.





regarding the prevention of expulsion of refugees in the host country

- ❑ **Convention on the Rights of the Child (1989)**, Article 22 directs that: *"States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee shall receive appropriate protection and humanitarian assistance in the enjoyment of rights.... States Parties shall provide cooperation in efforts to protect and assist such a child and to trace the parents or other members of the family of any refugee child for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child deprived of his or her family environment..."*
- ❑ **Declaration on the Elimination of Violence against Women (1993)** draws attention towards vulnerability of women refugees.
- ❑ **Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees** is regarded as the most essential tool for reference and correct interpretation of the rights of refugees by the humanitarian organisations and various governments of nations.
- ❑ **Guiding Principles on Internal Displacement:** Guiding Principles on Internal Displacement, is a document containing 30 recommendations, for upholding the rights of internally displaced persons. The Guiding Principles explain explicitly the meaning of internal displacement. These principles outline the major laws developed internationally, mainly by the international human rights law and international humanitarian law, together in one document. They explicitly explain the rights of IDPs, the obligation of the States and other authorities towards them, protection from displacement, protection during displacement, humanitarian assistance, and issues related to their return, resettlement and reintegration.

The Guiding Principles is not legally binding or compulsory to follow for any nation/organisation. It is an auxiliary document for those concerned with the issue of intra-state displacement. They provide a comprehensive definition for IDPs and lists out their core rights, which are:

- Rights related to physical protection and integrity the right to life, protection from physical abuse and torture
- Rights concerning the basic necessities of life the rights to adequate food, water and shelter and right to health)
- Rights concerning the various social, economic, and cultural issues the right to education and right to compensation of property
- Rights concerning the security of civil and political issues the right to individual documentation and right to participate in politics

The Guiding Principles also resolve various other needs and protection risks that usually arise during internal displacement, like separation from the family, loss of important documents related to identity, loss of property and issues regarding freedom of movement in the refugee camps or place where they seek asylum. The following services need to be rendered to IDPs during all phases of displacement, such as:

- Security from unlawful displacement during the pre-displacement phase.
- Security and assistance during the displacement phase.
- Durable solutions *after being displaced*, such as protection of basic rights, humanitarian



assistance, settlement of issues related to their return or local integration at the place of displacement and resettlement.

❑ **National Legislation on Internal Displacement:** It is the primary responsibility of the States to guarantee the protection of the rights of IDPs through national legislation. States are also obligated to ensure that these laws and policies are in accordance with the international law and in consistence with the State's international legal obligations, traditions and dispute resolution mechanisms. For this, the State requires necessary strategic framework and appropriate atmosphere to implement the provisions. Since the IDPs are citizens of the very country in territory of which they seek asylum, the generally applicable laws of the land apply to them thereby removing the need for a separate set of laws concerning a lot of subjects; yet specific legislation is required to address other subjects that explicitly concern the IDPs. Most importantly, resolving the grievances of the IDPs is warranted. Grievance redressal requires review/introduction of:

- **Generally applicable laws:** The law of the land and thus Constitution of a nation is the highest legal norm in this category. Usually the Constitutions do protect the rights of the IDPs but in case any of its provisions is detrimental or insufficient or liable to be misconstrued to harm the IDPs, due amendments should be brought in to rectify the loophole. Constitutional laws must be helpful to the IDPs in regaining lost personal documents, property, voting rights, civil rights, educational rights, etc. In addition, the specific laws designed for the protection of IDPs should be compatible with the Constitution. Lastly, the judicial interpretation of both these laws by the courts while resolving cases of the IDPs should be unbiased and fair.
- Specific laws designed for addressing the problems of IDPs can be of various kinds. Governments have developed laws for a particular phase of displacement, such as laws concerning resettlement and reintegration processes. On the other hand many governments have developed national laws on the issues related to IDPs. Majority of these laws are designed to resolve the issues concerning all the phases of displacement, such as those concerning the prevention of conflicts and disasters, as well as those providing solutions to issues related to displacement. The States must ensure that the laws developed for the IDPs are completely compatible with the Constitutional laws of the nation as well as with the International laws. Extra focus should be given to guarantee that the laws formulated neither segregate the IDPs in their own nation nor encroach upon the rights of the non-IDPs. Also, the States must develop a necessary framework to implement the IDP-specific laws successfully.

In addition to this, international humanitarian organisations must assist the States for the realization of the rights of the IDPs. They must also assure that the national laws and policies framed by the States are compatible with the International laws.

A Manual for Law and Policy Makers has been formulated by the United Nations to provide guidance on key elements for drawing up national legislation in consistence with the protection of the human rights of the IDPs.

9.5 Status of Children and Women Traumatized in Conflicts

Civilians or non-combatants have had to bear the most atrocious instantaneous and sustained consequences of armed conflicts all through history in every corner of the world. Over half of the victims of wars in 18th, 19th, 20th and early 21st Centuries were civilians. This detrimental impact but only continues to grow at the same pace with which evolving warfare technology and strategy combined with global socio-political situations continue to make it easier to reach civilians far and wide. One of the crucial reasons for this is that almost all of today's wars are fought within States





and not between them because of which civilian involvement in wars in the recent decades has shot up from 5% to 90% with children comprising of almost half this population. Secondly, in modern warfare, gender-based violence and military involvement of children have developed into gruesome yet crucial 'weapons of war'-that are effective in amplifying pathos and aggression in the name of religion and ethnicity! Thirdly, large numbers of civilians are able to participate in armed strife owing to the easy availability of light weapons under the liberal international arms trade. Moreover the ruthless barbarity of our current times leaves the most sardonic and seasoned of observers confused. The most vulnerable and thereby the worst conflict-affected non-combatants are children and women, in that order. Amongst the 'Persons of Concern' on the globe by the end of 2012, 49% (equivalent to 22.1 million) are females. On the other hand 46% of the world's refugee population (close to 7.1 million) comprises of children.

UNHCR Global Trends 2012 Demographics

Persons of Concern (PoC) = 35.8 million			
Gender Based	%	49% females	51% males
	#	17.5 m females	18.3 m males
Age Based	%	49% children	51% adults
	#	17.5 m children	18.3 m adults
Children of Concern (CoC) = 17.5 million			
Children (0-4 yrs)		Children (5-8 yrs)	Children (9-17 yrs)
4.6 million		7.2 million	5.7 million
13% of PoC		20% of PoC	16% of PoC
26.5% of CoC		40.8% of CoC	32.7% of CoC

9.5.1 Rehabilitation and Reintegration of Conflict-affected Children

One of the greatest ironies of armed conflicts is that when adults indulge in strife, the most horrific consequences are on children-the most susceptible and blameless citizens of them all. Children suffer the worst brunt not just because they are defenceless in cross firing, but also because war strategies of the enemy deliberately target them. Added to this is the trauma of horrific abuse of their person, inhuman havoc to their psyche, and irreparable loss of family and home-after effects of which continue to characterize the remaining life of these children. Brutality takes another dimension altogether when war afflicted children go from being bystanders, casualties, and targeted victims to become offenders-with the rampant military use of children. Owing to armed conflicts in the last decade of 20th century, approximately 2 million children have been killed, 4 to 5 million children have been disabled, 12 million children have been rendered homeless, more than 1 million children have become orphans or have separated from their parents and around 10 million children are facing psychological problems.

To provide protection for children, the United Nation International Children's Emergency Fund (UNICEF) was established in 1946 after World War II. Over the years, organisations like UNICEF, UNHCR, International Committee of the Red Cross, Committee on the Rights of the Child, Action for the Rights of Children, International Rescue Committee and Save the Children International have worked to offer humanitarian aid and redressal to minors caught in the turmoil of war and



insurgency. In spite of this, war atrocity on children continues unabated and its scale is ever expanding.

A still from Children have the right to protection in times of war animation by Cartoons for Children's Rights a UNICEF broadcast initiative

The 1996 report titled *Impact of Armed Conflict on Children*, prepared through field visits and consultations by Graca Machel, the UN Secretary-General's expert on the subject and first Minister for Education in independent Mozambique, explicitly enumerated the exact manner in which children were involved in the ongoing armed conflicts across the world and strongly recommended that the international community take firm steps to stop recruitment of persons under 18 into armed forces, assistance programmes be developed and implemented to resolve issues regarding health, nutrition, adequate shelter, psychological and psychosocial well-being, and in the long run address the socio-economic issues that are the root cause of conflicts.

Ways in which Armed Conflicts Affect Children

- ❑ **Loss of Life:** Armed struggles inevitably result in demise of millions of children, their family cum friends-this leads to indescribable grief and bereavement for the young ones. War killings (direct causes) are just as responsible for these deaths as are diseases, poverty, starvation, exposure, lack of sanitation, inadequate medical aid, and social violence (indirect causes).
- ❑ **Physical Affliction:** Numerous children are physically injured, maimed and handicapped during the course of armed conflicts. Landmine explosions, war ammunition and erratic detonation of unexploded ordnance are the most prominent dangers that children are exposed to both during and post conflicts. Furthermore, several ailments in form of diseases and malnutrition grip children as a result of lack of food, water, sanitation, medical and immunization facilities. Sufferings of such children continue years after the war as rehabilitation services may take indefinitely long to reach the apt restorative drugs or supply the apt prosthetics.
- ❑ **Mental and Emotional Affliction:** Exposure to gruesome violence and war terror leaves a grave psychological impact on children. The irreparable losses and disruption in their lives lead to anxiety and chronic depression. Majority of these children survivors of war are doomed to tackle mental trauma caused by their bad experiences in the war for most of their remaining lives. Moreover, moral ethos of the children survivors are severely shattered-often a strong feeling of disregard for the values of society and humanity develops in them-mainly owing to the apathy and indifference exhibited by others towards their own sufferings. In such a frame of mind, these children become susceptible to brainwash, which further on disrupts society at large.
- ❑ **Gender-based Violence:** Rape and molestation are rampantly committed against children, both boys and girls, during armed conflicts. In fact gender-based violence is systematically employed as a weapon of war. Besides, adolescent girls are forced into prostitution to earn their livelihood. This invariably causes rise in sexually-transmitted diseases and psychological ordeal among this group. Physically abused females are additionally stigmatized in society for having relations and/or bearing babes out of wedlock, while the illegitimate babes are also marginalized.
- ❑ **Loss of the 'Way of Living':** Children lose their bearings, their home and hearth; the community structure and lifestyle they are accustomed to. Parents' preoccupation in seeking protection and subsistence for the family tends to render children neglected. Many are orphaned or separated from their parents and guardians. Several are forced to flee. They get little opportunity of education and recreation-thereby stunting their mental capabilities.





Lack of attention and care from parents/foster parents/caretakers propels children towards unhealthy habits, alcohol addiction, drug abuse and rebellious violent attitude. In absence of parental protection, children are compelled to fend for themselves for sustenance-often pushing them towards thievery, servitude, sex trade and militant activities.

- ❑ **Loss of Social Community and ethnicity:** Social community structure disintegrates during conflicts-the absence of which not only leaves children unprotected but also woefully ignorant of their cultural values, traditions and customs. Rubbles of war invariably bury some part of the heritage that is forever lost to the young people.
- ❑ **Forced involvement in Militant Activities:** Children are forcibly recruited in armed forces to participate in conflicts by warring groups. The military use of children takes three distinct forms: children take direct part in hostilities (as child soldiers); or they are used in support roles such as porters, spies, messengers, look outs; or they are used for political advantage either as human shields or in propaganda.

Read and Reflect

The 18-year old rebellion of the Lord's Resistance Army (LRA) against the government has forced over 1.6 million Ugandans- half of them children-to flee to squalid and overcrowded camps in order to escape wanton attacks and killings. The number of internally displaced persons has almost tripled since 2002. Attacks on soft civilian targets continue, carried out by child soldiers much younger than their victims.

The most disturbing aspect of this humanitarian crisis is the fact that this is a war fought by children on children-minors make up almost 90% of the LRA's soldiers. Some recruits are as young as eight and are inducted through raids on villages. They are brutalized and forced to commit atrocities on fellow abductees and even siblings. Those who attempt to escape are killed. For those living in a state of constant fear, violence becomes a way of life and the psychological trauma is incalculable. Fearing abduction, streams of children, often with mothers in tow, leave their homes every night and walk for hours from surrounding villages to reach the relative safety of major towns, only to trek their way home in the first light. Some 40,000 "night commuters" sleep under verandas, in schools, hospital courtyards or bus parking places to evade the snare of the LRA.

Since the rebellion began in the 1980s, some 30,000 children have been abducted to work as child soldiers and porters, or to serve as "wives" of rebels and bear their children. These numbers have soared, with 10,000 children abducted in the past 18 months alone.

Source: http://natclimbskili.com/ugandas_history

9.5.2 International Provisions for the Protection of Conflict-affected Children

Even though our world gets more precarious day by day for children caught in the crossfire, constant and relentless efforts have been made on the international forum to alleviate the situation, which have brought the world today in a stronger position to protect children during wars and armed conflicts. Numerous international treaties and laws have been adopted and amended to cater to the dynamic requirements of child protection norms.

The first children's rights proclamation to be drafted is the **1923 Declaration of the Rights of the Child**, which was prepared by Eglantyne Jebb, the founder of 'Save the Children' organisation. It comprised of five basic principles and was endorsed by the League of Nations. Later, the Declaration was revised, updated by additional five principles and then adopted by the United Nations as the **1989 Convention on the Rights of the Child** to set out the universal civil, political, economic, social, health and cultural rights of children. Meanwhile, the **Geneva Conventions of 1949** had



been passed in the wake of WW II to set down the rights of combatants (through the first three Conventions) and those of non-combatants (through the Fourth Geneva Convention a.k.a. 4GC) during armed conflicts. Subsequently the **1977 Geneva Protocols I & II** (a.k.a. PI and PII) had been added to the Conventions to detail on rights of victims (including children in war) in international and national strife. The specific provisions provided for civilians are:

- ❑ **Articles 23 and 55 of 4GC:** These articles state that during military operations, free passage should be provided for medical supplies, food and clothing for children and women (especially those pregnant or nursing mothers)
- ❑ **Article 24 of 4GC:** This article instructs the parties involved in the conflict to assure all kind of support to unaccompanied children or children who have been separated from their families.
- ❑ **Article 51 of PI:** It provides general protection to civilians during military operations. It states that civilians should not be attacked and no acts of violence should be conducted against them during military operations.
- ❑ **Article 77 of PI:** This article prohibits any form of sexual assault on children.
- ❑ **Article 14 of PII:** This article prohibits starvation of civilians during military operations. Therefore it condemns activities like destruction of food items, crops, livestock, drinking water, irrigation works, etc.

The **Convention on the Rights of Children** (CRC/UNCRC) holds the status of an international law, comprises of 54 Articles and is based on four core principles viz. non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child. Notable provisions include:

- ❑ The Convention provides for,
 - *Protection against any form of violence and exploitation*
 - *Protection against any form of physical atrocities or torture, or inhuman treatment*
 - *Assured help in re- uniting children with their family*
 - *Assurance in providing name and nationality to children*
- ❑ **Article 38** calls upon the States *"to ensure protection and care of children who are affected by armed conflict."* Besides this it also directs the States to *"refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen* years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest."*

* *The 2002 Optional Protocol* has amended the minimum legal recruitment age from 15 to 18.

- ❑ **Article 39** defines the rights of children during armed conflicts. It explicitly explains that both physical and psychological support should be assured to children during armed conflicts. It also states that governments should by all possible means help in the social reintegration of the child victims.

Till date, the CRC has been revised and appended with three optional protocols (amendment treaties that are independent laws, too). The First Optional Protocol to the CRC on the *Involvement of Children in Armed Conflict* enforced in 2002- (1) prohibits the conscription into the military of children under the age of 18 and (2) ensures that military volunteers under the age of 18 are exempted from taking a direct part in hostilities. The Second Optional Protocol, also enforced in 2002, is on the prohibition of sale and sexual abuse of children. The Third and the latest Optional Protocol, enforced in 2014, introduces a communication procedure through which children or their





representatives would be able to file complaints for violation of the rights of children.

The overall compliance to the CRC and the three Optional Protocols is monitored by the **UN Committee on the Rights of the Child**. As part of further efforts, the UN Security Council **Working Group on Children and Armed Conflict (CAAC)** was established in 2005 to address issues related to children in armed conflict situations and recommend methods of protecting children impacted by armed conflicts.

The adopted provisions may have not completely prevented but have restrained military abuses to a certain degree. Though national governments have known to cause ruthless violence on civilians, owing to growing involvement of sub national civil or military groups that are not bound by any treaty, the implementation of International Conventions becomes complicated.

Read and Respond

Using Books to Understand Impact of Wars on Children

Read books describing any war period, which may be historical fiction, periodicals, picture books, folk tales, or non-fiction text. Collect information on the role and struggles of children during the war. Maintain a file of the collected information along with the references of the sources. Also analyze society's perspective on that war.

Recommended Titles: The Diary of Anne Frank, Hana's Suitcase, The Kite Runner

9.6 Women Traumatized in Armed Conflicts

"Violence against women and girls continues unabated in every continent, country and culture. It takes a devastating toll on women's lives, on their families and on society as a whole. Most societies prohibit such violence - yet the reality is that too often, it is covered up or tacitly condoned."

- United Nations Secretary-General Ban Ki-moon

Gender-based violence against women of all ages and in all cultures, especially during wars and armed aggressions, is as old as history itself. However, of late it has emerged as a strategic weapon of war. One such deadly example is that of Sierra Leone where 94 per cent of displaced households had experienced sexual assaults. Similarly majority of women were raped during the genocide of Rwanda in 1994. Similarly there have been recent reports of sexual abuse during armed conflicts in countries like Algeria, Myanmar, Southern Sudan and Uganda.

The violence against women in war zones has been ever increasing. Large numbers of women are being trafficked out of war zones and are forced to work as labourers and sex workers. Even in refugee camps, bars, brothels, and prisons, women survivors have often endured physical and mental torture. Every woman in conflict zone has a story of horrific personal experiences to relate. This morbid saga of pain, torture and humiliation includes bloodcurdling incidents of kidnapping, blindfolding, beating, gang rapes, rape camps, mutilation and murder.

During armed conflicts, women typically have to witness and endure the murder of all their male relatives at the hands of combatants-often simultaneously with abuse of their person. The women are forcibly separated from their families and enslaved to serve the depravations of combatants. The females that are left back have to then fend for themselves as well as for the surviving children and elderly in the face of multiple deprivations. Gradually few of their family members succumb to hunger, exposure, diseases, grief and of course to continued militant actions. In fortunate instances, the women's children are spared from compelled recruitment as child soldiers/terrorists. Now, in order to feed these very children, women are constrained to choose between prostitution and signing up a child for militancy. Either choice takes them through a personal hell of its own kind. Frequently, women make a third choice and take their own lives and that of children to end the misery altogether. The fate of abducted and enslaved women, who manage to return to their homeland by escaping or being released after cease fire, gets no better. It



is even more traumatic to return only to find their homeland destroyed and families lost leading the women to suicide.

Wars leave indelible physical and emotional scars on the minds of women for their entire life. Sufferings of women continue even after the war has ended. Majority of them have very little hope of recapturing even a semblance of their former world. Thus the ordeal of women in war zones should be empathized with and efforts to support and protect them should be taken up on priority.

9.6.1 Towards Ending Violence against Women

In the International scenario, violence of any kind against women has been declared as a criminal offence and has been banned. Gay J. McDougall, the former Special Rapporteur on Contemporary Forms of Slavery, clearly states that *"must better reflect the experience of women and the true nature of the harms to them, particularly during armed conflict."* She requests for *"further development of the legal framework through consistent, gender responsive practice."* The next step in the direction of prohibiting violence against women was taken by the *UN Human Rights Committee*, when it declared the right to gender equality not only as a right to non-discrimination, but also appealed for taking the required action in the direction. Thus in March 2000, this Committee made it compulsory for all States to take the required action to eradicate all kinds of violence against women, such as rape, molestation, abduction, domestic violence, etc. The same objective was reiterated by the Security Council, in the **2000 Resolution on Women, Peace and Security**.

In spite of the adoption of these measures, it is believed that a lot more needs to be done to eradicate violence against women throughout the world. The biggest hurdle to corrective measures is the inability of women to access the protective services and available legal remedies. There are various reasons for this—*first*, women's status in the society and the prevalent cultural and social stigmas prevent them from seeking protection and instead force the victims to marry whoever will have them, including the men who perpetrated the crime; *second*, often rape victims are not empathized and accepted by the family members who prefer sweeping the matter under the carpet, and often make the situation even more horrid by molesting the victims themselves; *third*, the insurgency developed due to the war prevents women from gaining access to the various available protective facilities.

In 2010 the **United Nations Entity for Gender Equality and the Empowerment of Women a.k.a. UN Women** was set up by merging four distinct UN entities that functioned exclusively on the upliftment of state of women in the world. But this is not enough. Violence against women can be ended only with genuine implementation as opposed to mere adoption of provisions both nationally and internationally. States must also formulate special laws at the national level in tandem with the international laws to protect women. States even need to formulate a proper legal framework to investigate the crimes against women and punish the offenders on the basis of the report. This is extremely necessary to intimidate the perpetrators of such crimes. In addition, legislations must also be formulated to eradicate Domestic violence during post-conflict reconstruction.



Read and Respond

Women have not always been sufferers during conflicts. A number of women have participated in many roles in the various armed conflicts all over the world. While doing so they have sometimes created history.

Collect pictures and information of such women, who have played a prominent role in any war or civil war.





Unit End Reflections

Comprehension Questions

1. What is conflict?
2. What are the causes of conflicts?
3. Define internal conflict and civil war.
4. What is Protection? Why do refugees need protection?
5. Describe the rights of Refugees.
6. What is meant by internally displaced persons? Who is responsible for protecting them?
7. Mention the guiding principles on internal displacement.
8. Discuss the impact of war on children.
9. Why child soldiers are considered as an offence to humanity?
10. How do terrorists or fundamentalist groups mislead the children and use them to fulfill their narrow interest of violence?
11. Elaborate the measures which have been taken at the international level to protect the children during conflicts.
12. How are women traumatized during armed conflicts?
13. What steps are taken by the 'UN Women' to eliminate violence against women?
14. Differentiate between migrants and refugees.
15. Briefly describe specific laws designed for addressing the problem of IDP's.

Read and Reflect

2013's Top 5 Moments for Women's Empowerment

2013 was quite a year for women and we hope these moments will set the stage for some big changes in the world in 2014! Here are our top 5 moments for women's empowerment in 2013:

1. Malala Yousufzai rises from tragedy

After being shot and nearly killed by the Taliban for trying to attend school, Malala has regained her health and become a crusader for girls' right to education. She has also published a book and started the Malala Fund, which helps programmes that directly impact the quality and accessibility of education for girls.

2. Fawzia Koofi runs for President of Afghanistan

Although Afghan politician and women's rights activist, Fawzia Koofi had to withdraw from the presidential race, the audacity of her dream to be Afghanistan's first female president inspired us all. As a Member of Parliament in Kabul and the Vice President of the National Assembly, she continues to be an avid advocate of women's empowerment.

3. Dr Yeo Sze Ling honoured with Her World Young Achiever Award

At just age four, Dr Yeo Sze Ling contracted glaucoma, eventually losing all but the ability to see light. Not letting her disability bar her way to success, she not only attended a mainstream secondary school, but also graduated top of her faculty with a degree in Mathematics. She went on to obtain a PhD in Mathematics. Today she works as a research scientist in coding theory at A*.



4. **Sheryl Sandberg ignites a conversation about leaning in.**

With her book *Lean In*, Facebook COO, Sheryl Sandberg started an important conversation about corporate culture, female power, the glass ceiling, and what women can do now to elevate themselves for the career long-haul.

5. **Debbie Sterling creates Goldie Blox**

Engineer Debbie Sterling challenged the perpetuation of gender roles when she created Goldie Blox, a book series and construction set that engages kids to build through the story of Goldie, the girl inventor who solves problems by building simple machines.

With so much progress in women's empowerment being made, there is still plenty of work to be done in ensuring that women across the world live happy and fulfilling lives free of oppression, subjugation, and abuse.

*Source: The Singapore Committee for UN Women
Posted on January 5, 2014*







HUMAN RIGHTS

UNIT-3

Redressal Mechanism





CHAPTER 10: REDRESSAL MECHANISM

Human Rights are said to be inalienable. We enjoy these rights merely on the grounds of being human beings. These rights are bestowed upon every individual in equal measure. This implies that while all individuals enjoy the liberty to advance their lives in every sphere, they are also obligated to respect that others are just as entitled to enjoy the human rights in a similar manner.

One has freedom to enjoy rights but not to violate the rights of others. People may have conflicts and disagreements due to which situations arise in which one violates the rights of others. Many a time people with special powers in the government and/or non-government organisations wittingly or unwittingly infringe upon the rights of others. We would do well for ourselves and all humanity if we create in ourselves, respect for human rights which would in turn induce us to behave in a manner that acts as an enforcement mechanism by itself.

Unfortunately the situation is not so idyllic. On a daily basis crimes and violations of human rights are perpetrated. We hear of incidents of foeticide, child labour, rapes, abuses, abduction, murder, so on and so forth through various sources of media. In such a scenario, it is imperative that awareness of human rights is created and promoted. This is to help an individual to seek effective redressal and also to make the redressal mechanisms efficient and effective. The perpetrators of the crime would be punished and the victims would have a redressal mechanism to entreat relevant remedy.

10.1 What is a Redressal Mechanism?

Before we study the redressal mechanism in the areas of education, health and consumer rights at the national as well as international level in detail, we need to know the origin and the meaning of the word 'redress'. It means to remedy or set right an undesirable or unfair situation, or to provide remedy or compensation for a wrong done or grievance.

Redress mechanism is developed for the protection of human rights in different fields both at the governmental and non-governmental spheres at different national and international levels.

10.1.1 Importance of Redressal Mechanism

Victims of human rights abuse have well established rights to see the offenders punished, to receive compensation and to know the truth. Human rights violations not only affect the victims, but the society as a whole. To fulfil these obligations, states have duties to guarantee that violations do not occur or recur and hence it is bound by a special duty to form suitable redressal mechanism so as to prevent abuses and to protect as well as promote certain rights freedoms of its citizens. The grievance Redressal mechanism of an organization is an instrument to measure its efficiency and effectiveness. It provides valuable feedback on the functioning of the organization.

The redressal mechanism system allows people to seek remedies for actual or even perceived hostile treatment or injustices in their dealings with governmental or non-governmental agencies. Through such mechanisms one can hope to remedy grievances, to obtain a second perspective, to voice an appeal, or to dispute decisions, as applicable. The mechanism should clearly outline the means through which redressal and compensations may be sought. It is important that people are assured of fair treatment and the decisions pronounced are fair and justified under the relevant rules.

10.2 What are Judicial and Non-Judicial Redressal Mechanisms?

Judicial Redressal Mechanisms can be defined as legal mechanisms which are mandated to receive complaints and help resolve disputes. They are empowered to produce binding adjudications. This



mechanism does not always function effectively and can be difficult to access, especially for victims who lack knowledge about the existence of the mechanism. It is also found to be a more expensive and time-consuming form of addressing disputes, abuse or misconduct.

Non-Judicial Redressal Mechanisms can be defined as voluntary mechanisms that are mandated to receive complaints and help resolve disputes but are not empowered to produce binding adjudications. They enable claims to be pursued via rules and procedures that are more formalized than those rules when claims are pursued via political campaigns or voluntary business but less formalized than judicial rules and procedures. They therefore go beyond corporate self-regulation but stop short of legal regulation.

Non-Judicial grievance mechanisms offer possibilities for addressing human rights abuses. These improve human rights policies and practices of multinational corporations. The mechanisms play an important role in complementing and supplementing the often more expensive and time consuming legal forms of addressing corporate misconduct.

Read and Respond

Are you familiar with the word 'omhurdsmen'? Look up its origin and etymology. Conduct some research and discuss your inferences in groups of 6. Based on the group discussion, formulate a set of 4 questions each to ask in a class quiz.

10.3 Redressal Mechanism in the Areas of Education

Importance of Education

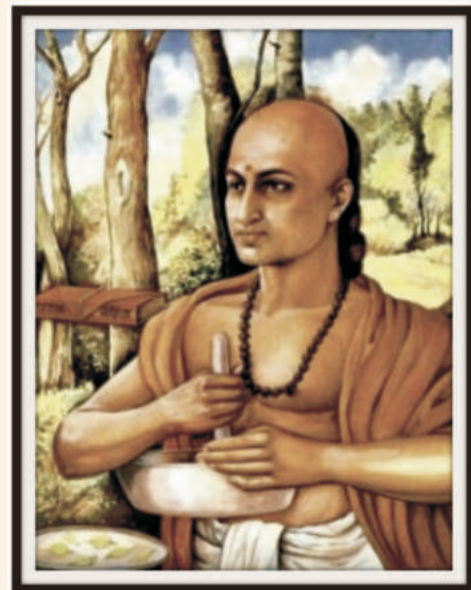
Education is the best friend. An educated person is respected everywhere. Education beats beauty and youth.

- Chanakya, the great economist, philosopher and advisor of the Gupta Period

Education is the manifestation of the perfection already latent in man.

- Swami Vivekananda

Education helps an individual to acquire knowledge as well as gives a different perspective and view to any situation. It facilitates the process of thinking, helps decipher how things work and also increases one's self-esteem. Economically, it is a great tool to get rid of poverty, thereby diminishing the social and economic disparity.



Education is an essential human right and a valuable medium for an individual's freedom and empowerment. In spite of that, there are millions of children and adults who do not get the opportunities for education.

What is the Right to Education?

The Right to Education is a basic human right. Every individual, irrespective of age, gender, disability, race, nationality, social or ethnic origin, religion or political preference, etc., is entitled to a free elementary education.

According to, Article 26 of *Universal Declaration of Human Rights (UDHR)*, 1948

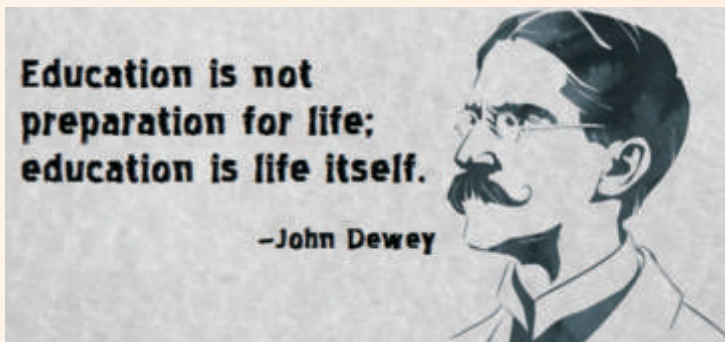
- ❑ *Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.*





- ❑ *Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.*
- ❑ *Parents have a prior right to choose the kind of education that shall be given to their children.*

The Right to Education has been recognized internationally to be the pivotal constituent, intended not only for men and boys but women and girls as well. Various international human rights conventions repress any discrimination based on sex or gender as mentioned by the Universal Declaration. Every child, boys and girls equally, under all such conventions, have a right to obtain free and compulsory primary education under all such conventions. It is an unchallengeable right.



John Dewey-American philosopher, psychologist & educational reformer

Education has a decisive role to play in the development of a nation, especially in developing countries like India. It can help in the economic growth of the country, control the population growth, poverty and increase the employability as well as productivity in a society. Education helps the person learn to read, write, calculate and think critically as well as decisively. It ensures better economic growth as well as

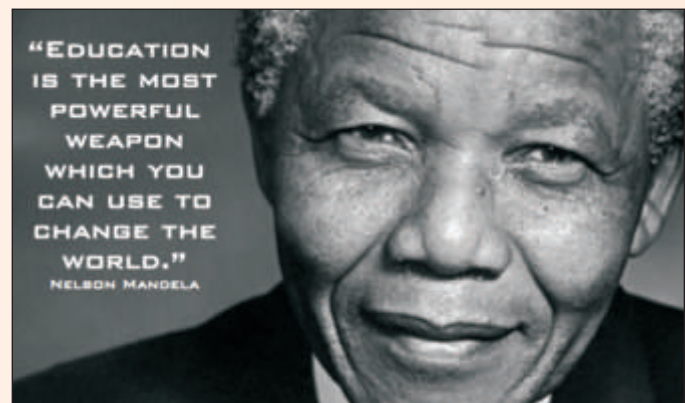
prospects, increases the agri-cultural productivity, builds self esteem thereby making people healthier and happier. The primary educational skills become the basis for learning in the future and there are number of children across the developing countries that are missing out on such a valuable life asset. To fight this problem, India has made several efforts; RTE is one of them which we will discuss in detail here.

Read and Respond

Find out John Dewey's contribution to the modern educational system and write a paragraph on it.

What is the need of the Right to Education?

The right to education (RTE) is not an end in itself, but is a significant device in improving the quality of life of human beings. Through education, a nation can achieve not only the economic but also social and cultural advancement. It is only an educated individual who can enjoy many of his other human rights. It also helps in creating awareness among people about their responsibilities, which is an indispensable instrument for accomplishing the goals of equal opportunity, peace and harmony in the world.



"There are a large number of human rights problems, which cannot be solved unless the right to education is addressed as the key to unlock other human rights. Education operates as multiplier,



enhancing the enjoyment of all individual rights and freedoms where the right to education is effectively guaranteed; while depriving people of the enjoyment of many rights and freedoms where the right to education is denied or violated."

~ Katerina Tomasevski, former United Nations Special Reporter on the Right to Education

International Conventions Relevant to Redressal of Human Rights

❑ Universal Declaration of Human Rights, 1948 (Article 8)

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by the law.

❑ European Convention on Human Rights (Article 1, Right to an Effective Remedy)

Anyone whose rights and freedoms set forth in this invention are violated should have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

❑ International Covenant on Civil and Political Rights (Article 14-1)

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against a person of his/her rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing be a competent, independent and impartial tribunal established by law. The press and public may be excluded from all or part of the trial for reasons of morals, public order or national security in a democratic society or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. Any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

10.3.1 Organizations Working towards the Redressal of the Universalisation of Education at the International and the National Levels

At the international Level

The United Nations



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 is its motto. It affords the opportunity for countries to balance global interdependence and national interests when addressing international problems. The UN emblem depicts the world held in the 'olive branches of peace'. It systematically works towards redressal in various areas.

UN Convention on the Rights of Persons with Disabilities (Article 24- Education)

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:
 - a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;





- b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
 - c) Enabling persons with disabilities to participate effectively in free society.
2. In realizing this right, States Parties shall ensure that:
- a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
 - b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
 - c) Reasonable accommodation of the individual's requirements is provided;
 - d) Persons with disabilities receive the support required, with in the general education system, to facilitate their effective education;
 - e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
- a) Facilitating the learning of Braille, alternate script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
 - b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
 - c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deaf blind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train the professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternate modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

10.3.2 Government of India Educational Endeavours: At the National Level

Numerous schemes, policies and programmes are sponsored by the Government of India under the Ministry of Human Resource Development to implement quality education. In India, education is a subject that falls under the Concurrent Lists; this implies that education laws prevalent in any part of the country are determined by the State Government in addition to the Central Government.

National Advisory Council (NAC) Recommendations for Strengthening the Right to Education

On the basis extensive study and discussions with experts and stakeholders, the National Advisory



Council has framed a set of key recommendations that would facilitate in better enforcement of this right as well as in making quality education accessible for all.

1. Increase financial allocations and improve efficiency of public spending to promote learning outcomes and inclusiveness in elementary education.
2. Government of India should develop a comprehensive national policy for early childhood and pre-school education.
3. Establish well-defined learning outcome goals through the National Curriculum Framework (NCF).
4. Strengthen monitoring and evaluation systems to ensure that all schools fulfil (i) RTE input and infrastructure norms; and (ii) requirement of learning outcomes and inclusiveness.
5. Give top priority to enlarging the pool of competent teachers.
6. Ensure better integration of children from disadvantaged groups and the economically weaker sections in private schools, as prescribed by RTE Act, 2009.
7. Support all schools to meet the compliance requirements under the RTE Act in a time bound manner.

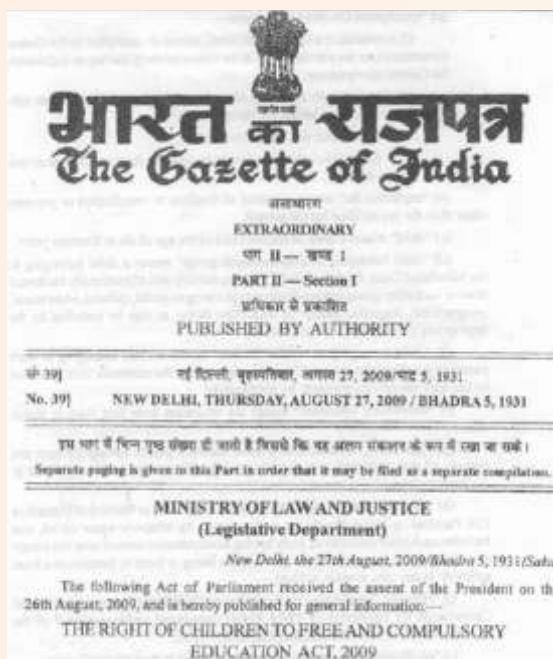
The Right of Children to Free and Compulsory Education Act (RTE), 2009

The Right of Children to Free and Compulsory Education Act which came into force on 1st April, 2010 is a land mark legislation that makes elementary education (from ages 6-14) a fundamental right guaranteed by the Constitution of India. Government of India along with the State Governments has since initiated several measures to ensure effective implementation of the RTE.

The Constitution of India cites the RTE in the Chapter of Directive Principles of State Policy. The Constitution (86th Amendment) Act, 2002 added Article 21-A which bestows the right to free and compulsory education on all children between 6-14 years as a Fundamental Right. This means that every child has a right to full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.

There are two important words 'free and compulsory education' in the title of the RTE Act.

- ❑ *'Free education'* means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.
- ❑ *'Compulsory education'* confers the responsibility on the appropriate Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age groups. With the introduction of RTE, India became one of 135 countries to ensure that every child gets the opportunity of a fundamental right of education. India has made a progressive move to a rights based approach that creates a legal





obligation for Central and State Governments to execute this fundamental child right as preserved in the Article 21-A of the Indian Constitution.

RTE: Model Rules

The RTE Act, 2009 (the "Model Rules") are proposed to provide added guidance for executing the Act and making it a reality. It also assigns the accountability for ensuring that all children are admitted in schools and supervise the process of admission among the following bodies:

- ❑ appropriate Governments, defined as the Central Government, State Governments and Union Territory Governments;
- ❑ local authorities, defined as a Municipal Corporation, Municipal Council or Zila Parishad, Nagar Panchayat, Panchayat and any other organization or authority having executive control over the school in question or authorized by or under any law for the time being in force to function as a local authority in any city, town or village;
- ❑ Schools will constitute *School Management Committee (SMC)* that consists of elected representatives of the local authority, parents or guardians of admitted students and teachers;
- ❑ *State Commissions for the Protection of Child Rights (SCPCR)* as constituted under Section 3 of the Commission for the Protection of Child Rights Act 2005 or its equivalent Right to Education Protection Authority (REPA) if the State Government in question has not yet set up an SCPCR, which are in charge of setting up child helpline to act as a forum for aggrieved and distressed children/guardians who need to file a complaint regarding the violation of rights under the RTE.



WHAT THE ACT SA

RTE Act, Section 3(1)
Every child of the age of six to 14 years shall have a right to free and compulsory education in a neighbourhood school till completion of elementary education

The role of *Universal Elementary Education (UEE)* is very crucial to strengthen the base of a democratic system by providing equal opportunity to everyone. With the formulation of National Policy on Education, India started a broad range of programmes so as to accomplish the objective of UEE through numerous schemes and programmes, such as the Operation Black Board, Shiksha Karmi Project, Lok Jumbish Programme, Mahila Samakhya, District Primary Education Programme, etc. A few important ones are enumerated ahead.

1. Sarva Shiksha Abhiyan(SSA)

India's focal programme for universalizing elementary education is implemented through the Sarva Shiksha Abhiyan. 'Education for All'-the motto of SSA, envisions ensuring the fundamental right of education to every Indian. In collaboration with the State Government, the SSA endeavours to establish new schools as well as increase the facilities of the already established schools, thereby making available the required resources to make the mandate of free and compulsory education to the children between the age group of 6-14 years a reality. Some of the main goals of the SSA are to provide admission and maintenance and abolish the gender and social gaps in education so as to improve the level and quality of learning in children. It also presents a range of interventions like construction and opening of new schools, alternate schooling facilities, additional provisions for teachers, regular teacher training, facilitating the academic resource support,





textbooks and also providing the support for learning. It is imperative for the decision makers to understand that it would not be possible to realize the goal of the RTE act until and unless the provisions accorded by the SSA are put to use effectively.

2. Mid Day Meal Scheme (MDMS)

MDMS provides free food to all the students of over 12.65 lakh schools and Education Guarantee Scheme (EGS) centres within the country.

3. Mahila Samakhya

Mahila Samakhya was launched to pursue the aims of the 1986 Educational Policy to educate the women in rural areas, especially those who belong to the economically or socially disadvantaged section of society.



4. National Programme for Education of Girls at Elementary Level (NPEGEL)

NPEGEL is a valuable constitute of the SSA that focuses on supporting female education.

5. Kasturba Gandhi Balika Vidyalaya

It was set up with the idea of establishing residential schools for girls at the upper primary level for the Scheduled Caste, Scheduled Tribe, Other Backward Communities and minorities in problematic regions.

6. Rashtriya Madhyamik Shiksha Abhiyan (RMSA)

RMSA was initiated with the goal to improve admission as well as augment the caliber of secondary education. Conferring to recommended criterion, eliminate socio-economic, disability and gender biases are some of the ways RMSA follows to universal access to secondary level education within a targeted time frame.



7. Scheme of Vocationalisation of Secondary Education at +2 level

Vocational education at the +2 level augments career opportunities and mitigates the lacunae between the demand and supply of the manpower required in the country. Model schools in huge numbers are being set up at the Block level as a touchstone of destination

8. Scheme for Construction and Running of Girl's Hostel for Secondary and Higher Secondary Schools

Read and Respond

Write short notes of 30-40 words on the Redressal Mechanism of any five of the education schemes mentioned above.

This is a Central Government scheme initiated to set up 100 beds Hostels in all the educationally backward Blocks of the country.

9. Scheme of ICT @ School

Information and Communication Technology at the school level was introduced in 2004. This allowed secondary school students from even students from lower socio-economic strata to learn the ICT skills which hitherto were not available to them.

How the Redressal Mechanism works with the RTE

The RTE Act is undoubtedly an extremely powerful law that assures radical improvement in access to education for the children of India. Nonetheless, implementation is the key and an effective grievance redressal strategy can actually achieve the aim of universalization of education. Under





the RTE Act, Sections 31 and 32 assign the role of independent monitoring and grievance redressal to the Local Authority at the level of the urban local body/gram panchayat, and the State Commissions for the Protection of Child Rights (SCPCRs) and the *National Commission for the Protection of Child Rights (NCPCR)* at the state and national levels, respectively. These bodies are required to monitor compliance with the Act, and to receive and act on complaints.



The National Commission for the Protection of Child Rights (NCPCR) shall review the safeguards for rights provided under this Act, investigate complaints and have the powers of a civil court in trying cases. In addition all the States in India have been directed to constitute a *State Commission for the Protection of Child Rights (SCPCR)* or the *Right to Education Protection Authority (REPA)*.

The first level of the grievance redressal is the School Management Committee after which the complaint would be directed to the local authority. Any person wishing to file a grievance must submit a written complaint to the local authority. If the grievance has still not been redressed, the complainant could appeal to the SCPCR and the NCPCR. Appeals would be heard by the SCPCR/REPA. Prosecution of offences requires the sanction of an officer authorized by the appropriate government.

In addition, the Sarva Shiksha Abhiyaan outlines 14 issues that need to be taken on board to set up a comprehensive monitoring, accountability and grievance redressal mechanism, including raising awareness and public display on the entitlements secured under the RTE; appointment of designated officers to dispose grievances; developing systems for complaint registration; formats and multiple forms of grievance registration; time schedules for complaint disposal; confidentiality clauses, etc. The SSA Framework of Implementation issued by the Ministry of Human Resource Development in March 2011 expressed vital elements of a grievance redressal system. It underlined the principles of decentralization and accessibility and stressed the need to establish modalities for dealing with violations and grievances, “... *the absence of a grievance redressal system implies that monitoring in a rights framework would necessarily entail intervention of the judiciary. A well-managed grievance redressal mechanism on the other hand allows for monitoring to be effective through interaction with the system rather than the judiciary. This means that for the SSA to function effectively in the era of RTE, it will need to develop links with both the grievance redressal as well as monitoring structures mandated under the act... A well defined institutional mechanism for grievance redressal involves a system of registering, investigating and responding within a well appointed time-frame.*”

10.4 Redressal Mechanism in the Areas of Health

Importance of Health

There's nothing more important than our good health - that's our principal capital asset.

~ Arlen Specter, United States Senator

To keep the body in good health is a duty... otherwise we shall not be able to keep our mind strong and clear.

~ Lord Gautam Buddha

In accordance with the popular saying, 'health is wealth', every human being has a right to a sound body and mind. Wherever we work and whatever we do in our life, we need good health in order to carry out our duties well. Many people do not recognize the significance of good health and even if



they do, they may still ignore it. In other words, they just take it for granted when people talk about health, they typically refer to the state of the body. But, health does not simply mean being free from physical pain or the symptoms of diseases. The mind constitutes an essential part in the overall assessment of wellbeing. Good health is not only restricted to a particular caste, creed, gender, or religion, but is the fundamental right of each and everyone.

Right to Health

According to the Committee on Economic, Social and Cultural Rights, the right to health is an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water, adequate sanitation, adequate supply of safe food, nutrition, housing, conducive occupational conditions, healthy environmental surroundings, access to health-related education and information etc.

Right to health is not incorporated directly as a fundamental right in the Indian Constitution. Rather it imposes this duty on the state and to guarantee social as well as economic justice. The Constitution directs the state to take measures to improve the condition of health care of the people. Thus the Preamble to the Constitution of India, inter alia, seeks to secure for all its citizens, social and economic justice. To ensure protection and fulfilment of the right to health for all, without any discrimination, as a Fundamental Right under Articles 14, 15 and 21 (rights to life, equality and non-discrimination), the Constitution of India places the responsibility on the Government. It provides a framework for the accomplishment of the objectives laid down in the Preamble. The Preamble has been improved and elaborated in the Directive Principles of the State policy (Part IV).

The Ministry of Health and Family Welfare, Government of India has set up the National Health Portal in pursuance to the decisions of the National Knowledge Commission. It provides information related to healthcare to the citizens of India and also serves as a single point in getting consolidated health information. The National Institute of Health and Family Welfare (NIHFW) has established the Centre for Health Informatics to be the secretariat for managing the activities of the National Health Portal.

The National Health Bill, 2009

To achieve and protect the rights with regard to health, well being, health equity and justice, the Government of India announced the National Health Bill in 2009, which embraced all the pertinent determinants as well as the constituent links of health, health care and the universal access of health care.

The National Human Rights Commission (NHRC) has linked the issue of health to that of human rights because it is perceived that more could be done to accomplish human well-being when both are considered in tandem rather than as separate issues. The Core Advisory Group of NHRC on Health has the expertise of eminent medical persons and thus is able to conceive and execute schemes for systemic improvements in the health delivery system of the country. The Commission has organized three major national consultations on maternal anemia, human rights HIV/AIDS and access to healthcare. In addition, the Commission has also been working on issues like sub-standard drugs and medical devices, emergency medical care, illegal trade in human organs, and fluorosis. In partnership with Jan Swasthya Abhiyan, between July to December 2004, the Commission had organized five regional and one national public hearing on access to healthcare.

UN agencies like the World Health Organization (WHO), Pan American Health Organization (PAHO), United Nations High Commissioner for Refugees (UNHCR) and UNICEF, are all key leaders and partners that assist NGOs with their missions and endeavours, particularly those connected to health. Once the international community and larger agencies (UN and national governments) are





ready to fund and implement programmes, the NGO community serves as an orienting body or partner to create comprehensive, implementable health programmes. NGOs report to the international community and then execute programmes with financial and technical support from organizations and donors such as WHO, UNICEF, United States Agency for International Development (USAID), the Canadian International Development Agency (CIDA), and the like.

Government Agencies in the Field of Healthcare in India

The main work of the Department of Health (GoI) is to deal with the health care sector, including awareness campaigns, immunization campaigns, preventive and promotive medicine, and public health. Bodies under the administrative control of this department are:

1. Universal Immunization Programme
2. Integrated Child Development Services (ICDS)
3. National AIDS Control Programme
4. Department Of AIDS Control
5. National AIDS Control Organisation (NACO)
6. National Cancer Control Programme
7. National Leprosy Eradication Programme
8. Revised National TB Control Programme (Tuberculosis)
9. National Filaria Control Programme
10. National Iodine Deficiency Disorders Control Programme
11. National Mental Health Programme
12. National Programme for Control of Blindness
13. National Programme for Prevention and Control of Deafness
14. National Tobacco Control Programme
15. National Vector Borne Disease Control Programme (NVBDCP)
16. Pilot Programme on Prevention and Control of Diabetes, Cardio Vascular Diseases and Stroke
17. National Rural Health Mission (NRHM): incorporating AYUSH, IPHS and PRI
18. National Urban Health Mission (NUHM)
19. Reproductive and Child Health Programme (RCH)
20. Integrated Disease Surveillance Project (IDSP)
21. National Water Supply and Sanitation Programme

Read and Reflect

Polio Eradication: India Celebrates Victory over Polio

Completing three full years without reporting any case of polio, India celebrated a landmark achievement in public health on 11 February 2014-the victory over polio.

India has not reported any case of polio since a two-year old girl got polio paralysis on 13 January 2011 in Howrah district of West Bengal. India's victory over polio paves the way for polio-free certification of the South East Asia region of WHO in March end.

This is an unprecedented progress for a country, which reported more than half the global polio cases until the year 2009. Experts always predicted India would be the last to stop polio as its endemic pockets in parts of Uttar Pradesh and Bihar were among the most difficult places in the world for polio eradication.



India overcame huge challenges, with a strong commitment that matched \$ 2 billion allocation over the years to stop polio. Implementing innovative strategies, the programme reaches an incredible 99 per cent coverage in polio campaigns, ensuring every child, even in the remotest corner of the country is protected against polio.

India introduced the oral polio vaccine in 1985 in the Universal Immunization Programme in the backdrop of over 200,000 cases of polio annually (as per estimates of the Indian Academy of Pediatrics). In 1995, the first national polio immunization campaign was held; since then two national and multiple sub-national campaigns are rolled out every year for children up to 5 years of age.

In each national polio campaign, 2.3 million lakh vaccinators, led by 155,000 supervisors, visit 209 million households to immunize 170 million children up to the age of 5 years.

To immunize children on the move, transit vaccinators are positioned at bus stands, train stations, on trains, market places and important road intersections. Nearly 10 million children are immunized by the transit teams in each polio campaign, of them 100,000 on trains.

Focusing on the migrant population, the people on the move in search of livelihood who miss polio immunization in view of their transient nature, the programme covers 70,000 brick kilns and 38,000 construction sites. Nearly 4.5 million children are immunized in the high-risk migrant settlements in each polio campaign.

Since the start of the polio campaigns in 1995, as many as 131 polio campaigns have been held in India till date, in which 12.1 billion doses of polio vaccines have been administered.

The celebration to commemorate India's triumph over polio was addressed by the President of India Pranab Mukherjee, Prime Minister Manmohan Singh, Health and Family Welfare Minister Ghulam Nabi Azad, World Health Organization Dr Margaret Chan, Rotary International President Ron D Burton and UNICEF Representative Louis-Georges Arsenault. All the speakers lauded India's stupendous success and reiterated the need for India to stay vigilant in view of the huge risk of poliovirus importation until the crippling disease is eradicated globally.

Representatives of various other partners and donors, and ambassadors of various countries, which supported the India's fight against polio, joined the celebration.

Over 2,000 representatives from the field - the vaccinators, community mobilisers of the UNICEF-led Social Mobilization Network, the surveillance medical officers of WHO, and the health department officials-who were undeniably the key players in India's proud story of victory over polio, were present at the celebration.

Source: www.unicef.org/india/health_3729.htm

10.5 Redressal Mechanism for Consumers

Every human being is a consumer in some way or the other. Each one of us relies on another person for our needs at the subsistence level and for our desires at the comfort and luxury level. In a civilized society each one of us expects certain decorum to be maintained in any field. The same applies to the field of human beings in the role of a consumer.

Rights of a Consumer

Our rights as a consumer take the form of fair trade competition and we expect to have dependable as well as factual information about commodities we wish to consume. Thus we make the suitable choices based on the information available to us. India is a large country with the world's second largest population. The issues related to consumers have an effect on the entire population since





everyone is a consumer in some manner. The awareness of the consumer rights plays an important role in the protection of these rights. A majority of consumers are poor, unaware and vulnerable and get cheated very often by the shrewd seller or provider. They need support & protection from the crooked seller. The *Consumer Protection Act, 1986 (CPA)* protects the rights of consumer. Now consumers can go to consumer courts for the protection & welfare of their rights.

Consumer Protection at International level

Every year, 15th of March is observed as the World Consumer Rights Day. With the help of The International Organisation of Consumer Unions, which is presently known as Consumers International, the United Nations adopted a set of Guidelines for Consumer Protection on April 9, 1985 which was revised in 1999. The Guidelines address the interests and needs of consumers globally. They offer a framework for Governments, predominantly those of developing and newly independent countries, to draw from for elaborating and strengthening consumer protection policies and legislation.

These guidelines comprise a complete policy framework outlining what governments need to do to promote consumer protection in following seven areas:

1. Physical Safety;
2. Protection and Promotion of the consumer's economic interest;
3. Standards for the safety and quality of consumer goods and services;
4. Distribution facilities for consumer goods and services;
5. Measures relating to specific areas (food, water and pharmaceuticals) and
6. Consumer education and information programme.
7. Measures enabling consumers to obtain redress;

State of Consumer Protection in India

Human beings have various needs and wants. To fulfill these, people buy goods and services for a price. But many a times, the services and goods purchased are found out to be poor in quality or unduly over priced or given/measured less in quantity, etc. The consumers feel deceived by the suppliers who have sold the goods and services to them. In such a situation, where can they go for compensation for his loss? Hence, the need has risen to have a system to redress such issues. It has been said that the best criterion to measure the effectiveness of a system is an audit of the redressal system.

In a developing country like India, where people are not aware considering the literacy rate is very low, where poverty and unemployment are highly prevalent, the consumers encounter problems. Due to inadequacies, consumers in developing countries are not able to play a preeminent role in the economic development that is prompted by a knowledgeable population.

Consumer Redressal System in India

The Consumer Protection Act, 1986 was enacted on 24th December which is celebrated as National Consumer Rights Day. The Consumer Protection Act founds its base in the United Nations guidelines with the objective of providing better protection of consumers' interests. This Act offers effective safeguard to protect consumers against various types of exploitations and unfair dealings. It relies mainly on compensatory rather than a penalizing or preventive approach. It applies to all goods and services unless specifically exempted and covers the private, public and cooperative sectors and provides for speedy and inexpensive adjudication.



Consumer Rights in India

In the contemporary world we are well aware of our rights as consumers. This is because they have been clearly outlined and highlighted by the various governments of the countries. In addition to this they are well protected by various agencies like the governments, consumer courts and voluntary organizations. The consumer rights have now become an essential part of our life and we frequently exercise them whenever required. Thus the awareness towards consumer rights has certainly increased.

The rights under the Consumer Protection Act, 1986 flow from the rights enshrined in Articles 14 to 19 of the Constitution of India. As per the Act, terms like 'consumer', 'goods' and 'service' have been defined as:

- ❑ *'Consumer' is any person who buys goods for consideration and any person who uses goods with the approval of the purchaser. And,*
- ❑ *'Consumer' is any person, who hires any service for a consideration and any beneficiary of such services, provided the service is availed with the approval of the person who had hired the service for a consideration.*
- ❑ *'Goods' are those products which are manufactured or produced and sold to consumers through wholesalers and retailers.*
- ❑ *'Service' means service of any description which is made available to the potential user with respect to the provision of facilities in connection with banking, finance, insurance, transport, supply of electrical or other energy, housing, construction, water supply, health, entertainment, amusement etc. It does not include any service rendered free of charge or under a contract of personal service.*

The Consumer Protection Act, under Section-6, provides the following rights to the consumers:

1. **Right to Safety:** The Consumer Protection Act provides Right to Safety regarding such goods and services, which may be harmful to health, life or property of an individual. For instance, consumers have the right to safety against products like bad quality or stale food products, sub-standard and expired drugs, appliances made of substandard raw material, such as, utensils, water bottles, etc.
2. **Right to be Informed/Right to Representation:** The Consumer Protection Act also provides Consumers the right to the entire information, (such as quality, purity, date of manufacture, method of use, etc.) regarding the goods or services they wish to buy. Thus this right ensures that the producer may not cheat the consumer in any way.
3. **Right to Choose:** The right also gives the provision of choosing any goods or services available in the market to the consumer, without any kind of unfair influence on the part of the salesman. Any influence on the part of the salesman would be considered as interference. This offence is punishable according to the right.
4. **Right to be Heard:** This right confers provision for consumers of being attended to in case of filing a complaint. All the other consumer rights have no relevance if there is no action on the complaints of the consumers. Thus the consumer can file a complaint if any of these rights are affected. For the effective implementation of this right, several organizations have set up Consumer Service Cells, with the view to provide immediate and appropriate action to the complaint of the consumer. Besides, several newspapers like 'The Economic Times' have special weekly columns, through which they highlight the complaints of the consumers.
5. **Right to Seek Redressal:** This right gives the provision of receiving compensation to the consumers, in case their consumer rights are violated. E.g. if the quantity and the quality of the product bought by the consumer is below standard, and does not comply with the promise





of the seller, then the buyer can seek compensation, such as return or exchange of the product, free repair of the product, etc.

6. **Right to Consumer Education:** This right ensures to increase awareness of consumers regarding their rights as consumers. Various schemes have been adopted by the Government to educate and update the consumers regarding their rights, such as 'Upbhokta Jagran', a magazine published by the Ministry of Civil Supplies on the quarterly basis. Similarly a programme titled 'Sanrakshan Upbhokta Ka' is regularly telecast by Doordarshan in order to educate the masses about the consumer rights.

Duties of Consumers

Apart from enjoying consumer rights, the consumers also need to fulfill certain responsibilities. Consumers need to take care of certain things while purchasing services and goods, which are as follows:

1. **Consumers should exercise their rights without any apprehension:** Although many rights have been given to the consumers, they will be ineffective if the consumers are apprehensive about exercising their right. To do so they must be completely aware of their rights and all associated specifics while making purchases.
2. **Consumers should apply caution while making purchases:** The consumers must be very careful while purchasing products. They should not trust the salesman blindly. In fact the consumer must try to extract all information regarding the quality, quantity, price, utility etc, before finalizing on buying a particular good or service.
3. **Responsibility of filing a complaint on time:** The primary responsibility of a consumer is to file a complaint on time, in case the goods and services purchased are not up to the mark. If a complaint is not filed on time it will be in vain, especially if the period of guarantee/warranty has lapsed. The consumers ought to take action against the deceptive producers or salesmen, so as to discourage corrupt business practices.
4. **Consumers should be aware of good quality standards and should in no way compromise with it:** The consumers should be aware of good quality standards, such as ISI, Agmark, Woolmark, FPO, etc. They should never settle for low quality products solely on account of lower prices. If consumers compromise on the quality of the product on account of such issues, no rights would be able to guarantee them protection.
5. **Consumers should not blindly believe in advertisements:** Advertisements often exaggerate about the utility and quality of the products and services. Therefore the consumers must not be misled and should be able to assess the quality and merit of the products and services.
6. **Consumers must ensure to take the Payment Receipt and Guarantee/Warranty Card while purchasing any product:** It is the responsibility of the consumer to get a receipt or bill and a guarantee/warranty card, as applicable, from the seller while purchasing any product. These things will be extremely useful if the consumer finds any defect in the product or if the consumer needs to file a complaint against the seller.
7. **The Consumer should ensure that no hasty purchasing is done:** The primary responsibility of consumers is to ensure that purchasing is not done in a hurry, as they are quite likely to make a mistake or compromise in quality in such a situation. In fact they should plan before making the purchase i.e. they should do a market survey and make an estimate beforehand of the things required, including their quantity.

Contribution of Governmental Organization in Consumer Rights Protection

The foremost role for the realization of Consumer Rights is played by the judiciary in our country.



For proper implementation of Consumer Protection Rights, the Consumer Protection Act was amended in 2000. This amendment recommended formulating Consumer Protection Councils or Forums at the district, state and national level. It also formulated a Three-Tier Judiciary, to solve the complaints of the consumers in a time-efficient manner without any complication and expense. The three tiers of this judiciary system are as follows:

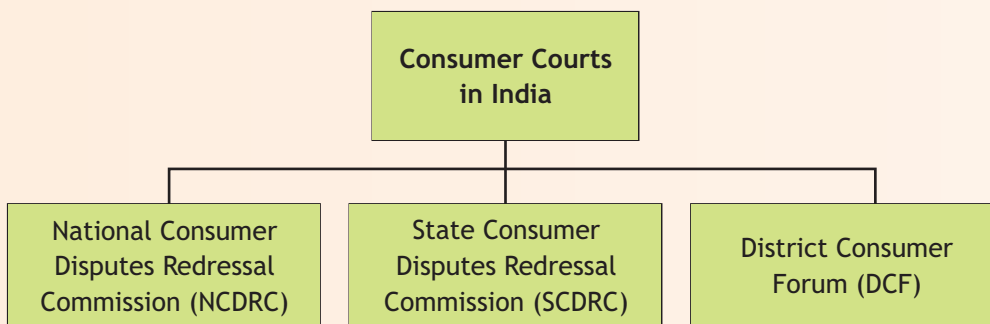
- 1) District Forum at the District level
- 2) State Commission at the State level
- 3) National Commission at the National level

Contribution of Non-governmental Organization in Consumer Rights Protection

Around 500 NGOs are also striving hard for the protection of the rights of the consumers by working towards accelerating consumer awareness towards consumer rights in the following manner:

- ❑ By publishing Brochures and Journals
- ❑ By organizing seminars, conferences and workshops for consumers
- ❑ By educating consumers about how they can help themselves
- ❑ By providing special education to women about consumer rights
- ❑ By encouraging consumers to understand the importance of desirable consumption standards

In India, the Consumer Protection Act (CPA) was enacted in 1986 with the specific purpose of protecting consumers' rights and providing a simple quasi-judicial dispute resolution system for resolution of complaints. Under CPA, a three-tier quasi-judicial machinery at the National, State and District levels has been established.



There are three layers of Consumer Courts in India.

1. At the top, there is an apex body known as *National Consumer Disputes Redressal Commission (NCDRC)* working hand-in-hand to provide inexpensive, speedy and simple redressal to consumer disputes in the country.
2. At the mid level, there is *State Consumer Disputes Redressal Commission (SCDRC)*. There are 35 such State Commissions in the country.
3. Finally, at the bottom is the *District Consumer Forum (DCF)* at the district level in the state. There are 604 District Forums in the country now.

This elaborate alternative redressal mechanism has provided several benefits to the consumers. Besides providing speedy redressal to the consumers' grievances, the clearly spelt out legislation has reduced the ambiguities in the procedural matters. Despite the existence of such a holistic law, the situation of consumer redressal in India is constrained with problems (like delays in judgment, non-compliance with orders, etc.). However, the present situation is certainly a big improvement over the situation that was prevailing in the past. Apart from the CPA, redressal mechanisms have





been incorporated under the *Monopolistic and Restrictive Trade Practice Act, 1969* and the *Indian Arbitration Act, 1940* while through voluntary complaint redressal mechanisms are being provided by various businesses these days.

Read and Respond

You must have heard of the catchy caption 'Jago Grahak Jago'. Cut some newspaper advertisement giving complete information about it. Find out and name some of the important measures taken by the Central Government to generate consumer awareness. Also look up how and when a complaint can be filed in the consumer court?

Leads: <http://pgportal.gov.in/>

Public Grievance Redressal Mechanism

India's National Consumer Policy statement takes into account inter alia the following two rights of consumers: basic needs and a healthy environment. The right to basic goods and services guarantees a dignified living. It includes adequate food, clothing, health care, drinking water, sanitation, shelter, education, energy and transportation. Healthy environment entails the right to a physical environment that enhances the quality of life. It includes protection against environmental damage and acknowledges the need to protect and improve the environment for future generations as well. One of the significant objectives of the National Consumer Policy is to make consumer impact assessment mandatory in every area of governance where consumer interests are affected. This assessment directly impacts the competitiveness of forms and thereby the productivity of the nation.

The efforts at the Central Government level are coordinated under the direction of the Cabinet Secretariat by the Department of Administrative Reforms & Public Grievance (AR&PG), in consultation with the Department of Consumer Affairs. The Department of AR&PG also simultaneously formulates guidelines for structuring a model charter of dos and don'ts to guide Government organisations.

Government Agencies in the Field of Consumer Rights Protection

The Ministry of Consumer Affairs, Food & Public Distribution and its associated Department are responsible for the formulation of policies for Monitoring Prices, availability of essential commodities, Consumer Movement in the country and Controlling of statutory bodies related to consumer affairs. The Department is entrusted with:

1. **Internal Trade:** Trade within the country, particularly within and between the states is in the Department's purview. It is governed by the following legislations:
 - ❑ The Spirituous Preparations (Inter-State Trade and Commerce) Control Act, 1955
 - ❑ Control of Futures Trading: the Forward Contracts (Regulations) Act, 1952
 - ❑ The Essential Commodities Act, 1955 (Supply Prices, and Distribution of Essential Commodities not dealt with specifically by any other Ministry/Department)
 - ❑ Prevention of Black-marketing and Maintenance of Supply of Essential Commodities Act, 1980. Persons subjected to detention there under
 - ❑ Consumer Protection Act, 1986
2. **Working of the Bureau of Indian Standards (BIS)**
 - ❑ *Bureau of Indian Standards (BIS)*, the National Standards Body of India is involved in the development of technical standards (popularly known as Indian Standards), product quality and management system certifications and consumer affairs. It resolves to be



the leader in all matters concerning Standardization, Certification and Quality. Originally set up as *Indian Standards Institution (ISI)* in 1947 as a registered society, under a Government of India resolution, the organization gave the nation the standards it needed for nationalization, orderly industrial and commercial growth, quality production and competitive efficiency. Later under the Bureau of Indian Standards Act, 1986, ISI transformed into present day statutory body BSI.

3. Regulation of packaged commodities in collaboration with the BSI under the provisions of the *Emblems and Names (Prevention of Improper Use) Act, 1952* and the *Standards of Weights and Measures Act, 1976*
4. Training in Legal Metrology
5. Monitoring of prices and availability of essential commodities.
6. Management of Consumer Cooperatives: All attached or subordinate offices or other organizations concerned with any of the subject specified in this list including Forward Markets Commission, Mumbai.
7. Maintenance of Consumer Welfare Fund
8. Supervision of Mumbai Grahak Panchayat

Non-Government Agencies in the Field of Consumer Rights Protection

The holistic vision of development includes not just economic progress for citizens, but also promotion of social justice, gender equity, inclusion, citizen's awareness, empowerment and improved quality of life. To achieve this vision, the state requires the productive and shared engagement of the civil society in its various developmental activities and programmes. Although the Government of India has the ultimate responsibility for development to its citizens in India, several non-governmental organisations also act as the operational arm of the civil society and thereby have an important role in the development processes.

Numerous NGOs are working in the field of consumer protection. Consumers are free to take advice and assistance, in case of any grievances caused by producer/company/seller. One can lodge complaints with some NGOs like Consumer Grievance, Consumer Guidance Society of India, Common Cause, and Consumer Forum. NGOs not only help in filing a case but also they provide logistic, manpower and other supports. They also conduct various programmes to educate consumers about their rights and responsibilities. One can also approach consumer help organisation called 'Jago Grahak Jago'. The aim of consumer right protection organizations is to establish and to attempt to enforce consumer rights. Effective work has also been done, however, simply by using the threat of bad publicity to keep companies' focus on the consumers' point of view.

Some of the leading NGOs working for the protection of consumer rights are:

1. **Consumer Education and Research Centre (CERC)** is a non profit, non government body, committed to the protection and promotion of consumer interests through active use of research, media, law, advocacy and information dissemination.
2. **Federation of Consumer Organisations in Tamil Nadu (FEDCOT)** is working for the promotion and development of consumers' interest and their welfare. It acts as a research, training, education, and awareness creating advocacy group. It builds linkages and works in partnership with community-based organisations and grassroots communities to strengthen their capacity and empower them to participate through initiatives in socio-economic accountable governance, sustainable agriculture, gender equalization and ecological activities.
3. **Citizen consumer and civic Action Group (CAG)** is an NGO that works towards protecting





citizens' rights in consumer and environmental issues and promoting good governance processes including transparency, accountability and participatory decision-making.

4. **The Consumer Guidance Society of India (CGSI)**, a Mumbai based NGO, is the earliest known consumers organization in India, founded by nine women in 1966 and it was the first to conduct formal product testing in 1977.
5. **Consumer Unity of Trust Society (CUTS)** was founded in Rajasthan in 1983 from a rural development communication initiative, a wall newspaper Gram Gadar (Village Revolution). This is published monthly and has been helpful in providing a forum for the oppressed classes to get justice. On seeing Gram Gadar, Rubens Ricupero, the fifth Secretary-General of UNCTAD observed: "It confirmed my view that often the simple lack of awareness lies at the root of so much misery".

10.6 Conclusion

Redressal mechanism plays an important role in the implementation of the different rights for the citizens of a country and provides relief in case of violation of rights. The Constitution of India guarantees human rights through its provisions on Fundamental Rights and Directive Principles of State Policy. Under the protection of Human Rights Act, 1993, various institutions such as National Commission on Human rights, State Commissions on Human Rights and Human Rights Courts have been established all over India. These institutions have taken reliable steps for the redressal of grievances against the violation of human rights. The three-tier judiciary system works to ensure the enjoyment of human rights by common people.

We have different redressal mechanisms working at different level in the different fields so that all citizens can enjoy their fundamental rights, realize their fullest potential and improve their quality of life. India adopted the right to education (the RTE Act, 2010), the right to health (National Health bill, 2009) and the consumer rights (the Consumer Protection Act, 1986) to safeguard the rights of its citizens. While the governments provide legal and administrative guarantees, the voluntary organisations (NGOs) monitor the efforts of the government to keep them on the right path. Hence, NGOs and the media play a vital role in ensuring the protection of human rights. However, the onus of building a progressive nation and society lies on the citizens their ability to realize their rights and take action to avail of them in full measure.

Read and Respond

The District Magistrate in Sitapur, Uttar Pradesh initiated the '*Lokvani System*' for effective grievance redressal. Find out about the '*Lokvani System*', its strengths and limitations. Discuss the system in your class.

Read and Respond

State Government of Andhra Pradesh initiated a project titled '*Andhra Pradesh Urban Services for the Poor*' (APUSP) to improve municipal services in small towns.

- a) This initiative focused on redressal of grievances of the common citizens regarding the services provided by the Urban Local Bodies (ULBs). Find out what is Urban Local Bodies (ULBs), its role and responsibilities.
- b) This project also initiated the Online Grievance Redressal and Tracking System (OGRTS). Research on the limitation of conventional ways of grievance redressal vis-à-vis the effectiveness of the OGRTS. Discuss it with your teacher in detail. How can this be implemented in other states?



- c) Compare the Lokvani and OGRT Schemes. Find out the similarities and differences in the two schemes.

Read and Respond

There is a road accident. You see a person lying in a pool of blood; you pick up that person and take him to a nearby private hospital where he is not given any treatment because he does not have any money to pay for the services. What will you do in that situation? Can you complain or help him to complain about your grievance to any authority? If yes, then what are steps? Discuss in the class.

Suo Motu Cases and Cases Registered on the Basis of Press Reports Forwarded to the National Human Rights Commission During the Period 01.04.2012 to 28.02.2013 and the Status of Action taken by the NHRC in These Cases

Sources-http://nhrc.nic.in/Documents/suo_motu_feb2013.pdf

Suo motu: In law, sua sponte or suo motu describes an act of authority taken without formal prompting from another party. The term is usually applied to actions by a judge taken without a prior motion or request from the parties.

Case Study-1 (Case No. 2432/4/39/2012)

National Human Rights Commission has taken cognizance of a press report captioned, 'Kids thrashed for refusing insect-infested school meal' that appeared in 'The Hindustan Times' dated 16.7.2012. The press report alleges that Sanjay Kumar, aged 12 and his brother, Chandeshwar Kumar, aged 13- students of Class-VI of a school at Mithani Milki village of Vaishali district near Patna were allegedly thrashed by their headmaster till they fainted for refusing to eat a mid-day meal of khichdi in which they found insects. The headmaster reportedly told them to pick the bugs out and get on with eating the meal. When the boys refused to do so, the headmaster allegedly caned them mercilessly. The children's father-a member of the Scheduled Caste-rushed them to a primary health centre for treatment and later, he lodged a complaint with the police against the headmaster.

The Commission vide its proceedings dated 16.07.2012 issued notice to the Chief Secretary, Government of Bihar and the District Magistrate, Vaishali to submit a report in the matter within four weeks. The Chief Secretary, Government of Bihar was also directed to inform the Commission as to what steps are being taken by the administration for monitoring and supervision of mid-day meal scheme in the schools including the quality of food being served to the school children in Bihar. The SP Vaishali, Bihar sent a report dated 5.12.2012. As per the report, after investigation, a chargesheet has been filed before the Court against the Headmaster of the school for beating the two students Raja and Chandrasekhar on 14.7.2012. The incident relates to crime no. 228/12 u/s 341/323 IPC and section 3 (10)SC/ST (PA) Act, PS Gorol (Katara OP).

The report did not mention if any interim monetary relief or compensation had been paid to the victim students under the provision of Rule 12 by the DM, SDM or any other Executive Magistrate of the area on filing of chargesheet against the accused headmaster under the provision of Section 3 (X) of the SC/ST(PA) Act 1989. The monetary relief as per the provision of scheduled annexure 1 to Rule 12 (4) of SC/ST (PA) Rules 1995 is required to be paid to the victims. The amount of monetary relief is to be determined according to the nature of the offence. The payment of 25% has to be made when chargesheet is sent to the court and the rest on conviction. Thus, 25% of the compensation/monetary relief that might be determined by the DM or SDM under Rule 10 (4) of the rules is required to be paid to the victim students after filing of the charge sheet.





The Chief Secretary, Government of Bihar did not send the report called for by the Commission vide its communication dated 18.7.2012 regarding the steps being taken for monitoring and supervision of the mid-daymeal scheme and quality of food being served in the schools of the State. Vide proceedings dated 22.02.2013, the Chief Secretary, Government of Bihar, Patna, has again been directed to send a detailed report in the above points within six weeks positively. The DM, Vaishali, Bihar, has also been directed to send a report along with proof of payment within six weeks, regarding payment of interim monetary relief to the victim students of SC community under the provision of Rule 12 (4) of SC/ST (PA) Rules 1995. Response received in the matter is under consideration of the Commission.

Case Study-2 (Case No. 1788/12/21/2012)

National Human Rights Commission has taken suo motu cognizance of a press report captioned, 'Stabbing victim bleeds to death at Indore police station' that appeared in 'The Indian Express' on 23.8.2012. The press report alleges that Ravi Dangi, aged 19 years and his friend Ankit Agrawal were stabbed by four youths in Anandnagar. Their relatives took them to the Rajender nagar Police Station where, television footage showed that the police, instead of taking the injured immediately to the hospital, got busy with paperwork, recording the statements for the next half an hour. Thereafter, Ravi was taken to the hospital where he was declared dead on arrival.

The Commission vide its proceedings dated 23.8.2012 issued notice to the Director General of Police, State of Madhya Pradesh to submit a report in the matter within four weeks. Pursuant to the directions of the Commission, the Additional DGP, Madhya Pradesh, forwarded inquiry report dated 27.08.2012 of the SP (HQ). The allegation of negligence on the part of the police was denied. The inquiry report mentions certain documents which were considered and which are mentioned as annexure to the report. However, these annexures have not been received in the Commission alongwith the report.

The Commission vide proceedings dated 26.02.2013 has directed the DGP, Madhya Pradesh to forward to the Commission all the annexures mentioned in the report dated 27.08.2012 of the SP (HQ). In addition to these annexures, he has also been to forward copies of the postmortem report and inquest report as well as GD reports dated 21.08.2012 concerning this case. Response was to be submitted within four weeks.

Case Study-3 (Case No. 1536/18/4/2012)

National Human Rights Commission during its visit to the Primary Health Centre, Khuntuni, District Dhenkanal and Community Health Centre, Behrampur, Odisha on 11th April, 2012 noticed serious irregularities on the part of government officials of the State amounting to violation of human rights of the citizens. Accordingly, the Commission vide its letter dated 29.06.2012 transmitted a copy of the inspection report to the Secretary, Department of Health, Government of Odisha calling for an action taken report in the matter within four weeks. Despite reminders, the report was not received. Hence, the Commission vide its proceedings dated 13.12.2012 has issued conditional summons to the Secretary, Health, Government of Odisha to submit report on or before 08.3.2012 or appear before the Commission on 15.3.2013.

Case Study-4 (Case No. 30578/24/17/2012-wc)

National Human Rights Commission has taken suo motu cognizance of a press report captioned 'School denies admission to gang rape victim in UP' that appeared in the 'Deccan Herald', Delhi dated 1.09.2012. The Press report alleges that a 14 year-old Dalit girl was gang raped a few days back. The culprits has also made an MMS of the incident and circulated it in the market, revealing her identity and making it difficult for her to go out. When the parents of the victim,



in an apparent attempt to allow her to overcome her trauma and start life a fresh, approached a school for her admission, the school refused to admit her on the ground that the parents of the other students have threatened to withdraw their wards if the girl was admitted at the school.

A chargesheet in Crime No. 75/12 U/S 376 (2) (g)/506 IPC and Section 3 (1) (xii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has already been filed in the Court. The Commission had asked the District Magistrate if the statutory relief under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, had been paid to the victim. The District Magistrate, Bijnor, has informed the Commission vide his letter dated 19.12.2012 that earlier a sum of ₹ 6,250/- was paid to the victim, being 25% of ₹ 25,000/- payable under entry at Serial No.10 in the Annexure-I of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995. However, the case being covered by entry at Serial No.11, 50% of ₹ 50,000/- is payable and, therefore, the balance of ₹ 18,750/- has been paid to the victim. Upon consideration of the report, the Commission vide proceedings dated 14.02.2013 observed as under:

"The incident of rape took place sometime in August, 2012. Hence, relief under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, is payable as per the amended norms for relief published in the official gazette on 23.12.2011. As per the amended norms under entry No.11 and 12, a sum of ₹ 1,20,000/- is payable to the victim. 50% of this amount is required to be paid after medical examination. Hence, a sum of ₹ 60,000/- is payable to the victim at this stage, whereas, she has been paid only ₹ 25,000/- as per the old norms. Hence, the District Magistrate, Bijnor, is asked to do the needful and submit a report to the Commission within four weeks".

Case Study-5 (Case No. 563/10/4/2012)

National Human Rights Commission on 21.08.2012 took suo motu cognizance of a newspaper report captioned 'No father's name, boy refused admission' appeared in the English daily 'The Hindustan Times' dated 16.08.2012. As per the report a three year old boy Swaraj is being denied admission by his local Anganwadi as his mother failed to fill up the name of father of the child. The report says, Swaraj was born when his mother was 17, after the man who promised to marry her vanished from her life and he is not ready now to admit the child is his. While observing that under the Right to Education Act, every child is entitled to education and denial of admission to a child is violation of his right to education, the Commission vide its proceedings dated 21.8.2012 directed to transmit a copy of the news paper report to the Chief Secretary, Govt. of Karnataka to look into the matter and take appropriate action.

Case Study-6 (Case No. 2292/22/15/2012)

National Human Rights Commission has taken cognizance of a press report captioned 'No admission for Dalit children' that appeared in the December 10, 2011 edition of The New Indian Express in Chennai forwarded by Shri Sruthisagar Yamunan, Journalist, in his e-mail complaint dated 10.8.2012 alleging discrimination against Dalit children in Kurayur village in Madurai. The press report alleges that the children of the Dalit families in Kurayur village near Kalligudi in Madurai district have been barred from admissions to the Government Middle School in the village by the dominant Hindu Caste. The Dalit children are forced to study at a missionary-run government-aided school on the border of the village, which has poor facilities. The school officials, who have been working there since early 1990s, said that they do not recall even a single Dalit student ever studying in the school.

The Commission vide proceedings dated 28.8.12 issued notice to the Chief Secretary, Government of Tamil Nadu to submit a report in the matter within four weeks. Response received in the matter is under consideration of the Commission.





Unit End Reflections

Comprehension Questions

1. What do you understand by Redressal Mechanism?
2. What is the significance of Redressal Mechanism in protection of human rights?
3. Differentiate between judicial and non-judicial redressal mechanism.
4. Discuss the recommendations of the National Advisory Council for strengthening the Right to Education.
5. Elaborate the steps that have been taken by the Government of India to redress the healthcare sector.
6. What are the rights of consumers under the Consumer Protection Act of India?
7. How does the redressal mechanism work with Right to Education?
8. Discuss the National Health Bill, 2009.
9. How do NGOs help the consumers to protect their rights in India?

