



Human Rights and *GENDER STUDIES*



Class XI



CENTRAL BOARD OF SECONDARY EDUCATION

Shiksha Kendra, 2, Community Centre, Preet Vihar, Delhi-110 301 India

नया आगाज़

आज समय की माँग पर
आगाज़ नया इक होगा
निरंतर योग्यता के निर्णय से
परिणाम आकलन होगा।

परिवर्तन नियम जीवन का
नियम अब नया बनेगा
अब परिणामों के भय से
नहीं बालक कोई डरेगा

निरंतर योग्यता के निर्णय से
परिणाम आकलन होगा।

बदले शिक्षा का स्वरूप
नई खिले आशा की धूप
अब किसी कोमल-से मन पर
कोई बोझ न होगा

निरंतर योग्यता के निर्णय से
परिणाम आकलन होगा।

नई राह पर चलकर मंज़िल को हमें पाना है
इस नए प्रयास को हमने सफल बनाना है
बेहतर शिक्षा से बदले देश, ऐसे इसे अपनाए
शिक्षक, शिक्षा और शिक्षित
बस आगे बढ़ते जाएँ
बस आगे बढ़ते जाएँ
बस आगे बढ़ते जाएँ.....





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CBSE Human Rights and Gender Studies

Class XI

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भारत का संविधान

उद्देशिका

हम, भारत के लोग, भारत को एक सम्पूर्ण¹ प्रभुत्व-संपन्न समाजवादी पंथनिरपेक्ष लोकतंत्रात्मक गणराज्य बनाने के लिए, तथा उसके समस्त नागरिकों को:

सामाजिक, आर्थिक और राजनैतिक न्याय,
विचार, अभिव्यक्ति, विश्वास, धर्म

और उपासना की स्वतंत्रता,

प्रतिष्ठा और अवसर की समता

प्राप्त कराने के लिए

तथा उन सब में व्यक्ति की गरिमा

²और राष्ट्र की एकता और अखंडता

सुनिश्चित करने वाली बंधुता बढ़ाने के लिए

दृढ़संकल्प होकर अपनी इस संविधान सभा में आज तारीख 26 नवम्बर, 1949 ई० को एतद्वारा इस संविधान को अंगीकृत, अधिनियमित और आत्मार्पित करते हैं।

1. संविधान (बयालीसवां संशोधन) अधिनियम, 1976 की धारा 2 द्वारा (3.1.1977) से “प्रभुत्व-संपन्न लोकतंत्रात्मक गणराज्य” के स्थान पर प्रतिस्थापित।
2. संविधान (बयालीसवां संशोधन) अधिनियम, 1976 की धारा 2 द्वारा (3.1.1977) से “राष्ट्र की एकता” के स्थान पर प्रतिस्थापित।

भाग 4 क

मूल कर्तव्य

51 क. मूल कर्तव्य - भारत के प्रत्येक नागरिक का यह कर्तव्य होगा कि वह -

- (क) संविधान का पालन करे और उसके आदर्शों, संस्थाओं, राष्ट्रध्वज और राष्ट्रगान का आदर करे;
- (ख) स्वतंत्रता के लिए हमारे राष्ट्रीय आंदोलन को प्रेरित करने वाले उच्च आदर्शों को हृदय में संजोए रखे और उनका पालन करे;
- (ग) भारत की प्रभुता, एकता और अखंडता की रक्षा करे और उसे अक्षुण्ण रखे;
- (घ) देश की रक्षा करे और आह्वान किए जाने पर राष्ट्र की सेवा करे;
- (ङ) भारत के सभी लोगों में समरसता और समान भ्रातृत्व की भावना का निर्माण करे जो धर्म, भाषा और प्रदेश या वर्ग पर आधारित सभी भेदभाव से परे हों, ऐसी प्रथाओं का त्याग करे जो स्त्रियों के सम्मान के विरुद्ध हैं;
- (च) हमारी सामासिक संस्कृति की गौरवशाली परंपरा का महत्त्व समझे और उसका परिरक्षण करे;
- (छ) प्राकृतिक पर्यावरण की जिसके अंतर्गत वन, झील, नदी, और वन्य जीव हैं, रक्षा करे और उसका संवर्धन करे तथा प्राणी मात्र के प्रति दयाभाव रखे;
- (ज) वैज्ञानिक दृष्टिकोण, मानववाद और ज्ञानार्जन तथा सुधार की भावना का विकास करे;
- (झ) सार्वजनिक संपत्ति को सुरक्षित रखे और हिंसा से दूर रहे;
- (ञ) व्यक्तिगत और सामूहिक गतिविधियों के सभी क्षेत्रों में उत्कर्ष की ओर बढ़ने का सतत प्रयास करे जिससे राष्ट्र निरंतर बढ़ते हुए प्रयत्न और उपलब्धि की नई उंचाइयों को छू ले;
- ¹(ट) यदि माता-पिता या संरक्षक है, छह वर्ष से चौदह वर्ष तक की आयु वाले अपने, यथास्थिति, बालक या प्रतिपाल्य के लिये शिक्षा के अवसर प्रदान करे।

1. संविधान (छयासीवां संशोधन) अधिनियम, 2002 की धारा 4 द्वारा प्रतिस्थापित।

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 the² 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. Subs, by the Constitution (Forty-Second Amendment) Act. 1976, sec. 2, for "Sovereign Democratic Republic" (w.e.f. 3.1.1977)
 2. Subs, by the Constitution (Forty-Second Amendment) Act. 1976, sec. 2, for "unity of the Nation" (w.e.f. 3.1.1977)
-

THE CONSTITUTION OF INDIA

Chapter IV A

FUNDAMENTAL DUTIES

ARTICLE 51A

Fundamental Duties - It shall be the duty of every citizen of India-

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers, wild life and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement;
- ¹(k) who is a parent or guardian to provide opportunities for education to his/her child or, as the case may be, ward between age of 6 and 14 years.

-
1. Subs. by the Constitution (Eighty - Sixth Amendment) Act, 2002

Preface



We live in a wide and varied world and yet we share a common bond. The history of humankind is marked by efforts to ensure respect for the dignity of all. The concept of human rights was introduced and developed by thinkers from various cultural and religious traditions. Important contributions to the promotion of this idea was made by statesmen and lawyers and gradually written norms establishing the protection of the rights of individuals were inscribed in national laws.

Steps were also taken to establish international human rights standards, in particular in the nineteenth century and after the First World War. However, it was only in the second half of the twentieth century that a comprehensive international system of human rights promotion and protection was set up. This was mainly due to the efforts of the United Nations, its specialized agencies and regional intergovernmental organizations.

This course of study also explores gender issues. The human sex ratio in the world clearly indicates that the world rightfully belongs equally to both the sexes. A gender imbalance creates malady and impacts on social constructs leading to issues related to stereotyping, discrimination and gender-based violence. Gender discrimination is again a human rights' issue.

Education directly or indirectly, serves the interest of furthering human rights and sensitivity towards gender. Albert Einstein, the scientist, once said, *"The concern for Human beings and their destiny is the prime objective of all scientific and technical efforts. Never forget it in the midst of your diagrams and equations."* The purpose of all education is to sensitise, to humanize, to take humanity to higher levels of knowledge, awareness, freedom and social responsibility. If we lose the meaning of education in its wholesomeness, we will end up creating a world without human values or justice, and ultimately, without progress, too.

The course in 'Human Rights and Gender Studies', is an effort by the Board to engage today's generation in creating a better world- of love, friendship, compassion, beauty, creativity, freedom and equality. Further, students will also be introduced to such values that are necessary and essential for the promotion and achievement of stable and harmonious relations among communities and fostering mutual understanding, tolerance and peace. Through the learning of human rights as a way of life, a fundamental change can be brought about to eliminate and eradicate poverty, ignorance, prejudice, and discrimination based on gender, caste, religion, disability or any other form of disadvantage.

Keeping in view the social unrest today, such education is the need of the hour in order to provide opportunities for students at the school level to develop and practise mutual respect and have concern for human rights and gender issues.

The course book is a result of the effort of a number of organizations and individuals. The Board wishes to express its sincere gratitude to all organizations for their contributions, in particular to the National Human Rights Commission. The National Mission for Empowerment of Women (NMEW), MWCD, Government of India.

I appreciate the effort of Dr. Sadhana Parashar, *Director (Academics, Research, Training and Innovation)*, CBSE and Ms. Neha Sharma, *Deputy Director (Examination Reforms)*, CBSE who have been involved in the development of this textbook.

Vineet Joshi
Chairman, CBSE





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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).

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

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.*



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 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.

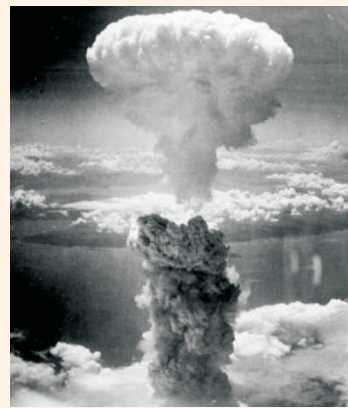


Fig. 1.3: WW II - The Atomic Attack

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.





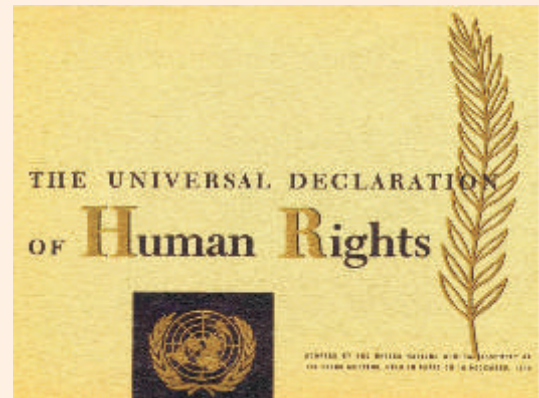
The statement of these rights, at the national level is reflected in respective constitutions of different countries. The UDHR covers two broad sets of rights. One set is known as '*Civil and Political Rights*'. The other set of rights is known as '*Economic, Social and Cultural Rights*'. According to 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 Study 1: 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 incharge 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.uncrcltsgetitright.co.uk/documents/UNCRC%20Poster%20\(English\).pdf](http://www.uncrcltsgetitright.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.*)

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

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.**





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 calming 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*.

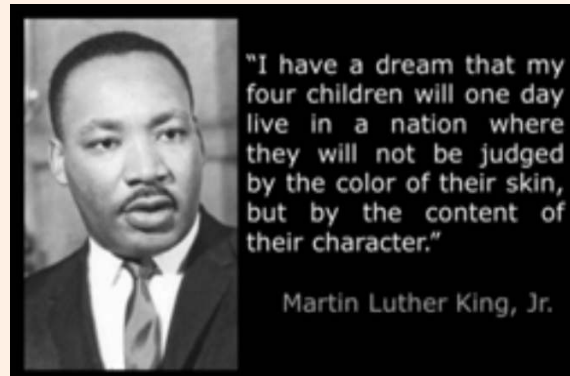
1.27 Martin Luther's Contribution to Human Rights

"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 evolution 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.

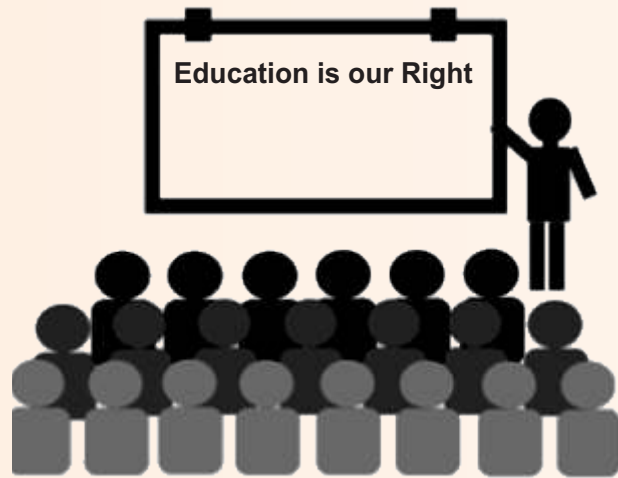
Education is that tool which will develop the understanding of the efficacy of the system and the importance of following the system. Unless each person does not understand the process and believe in its need it will not bring about internal peace and subsequently world peace as well as development of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

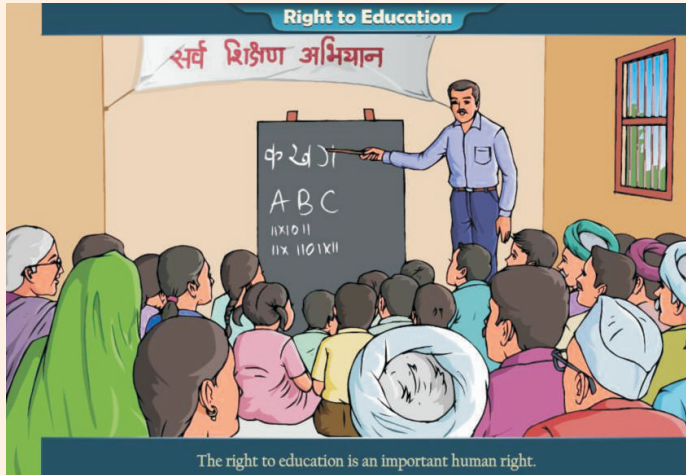


proposes to inflict punishment on parents who deny education to their daughters.

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 per cent.

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

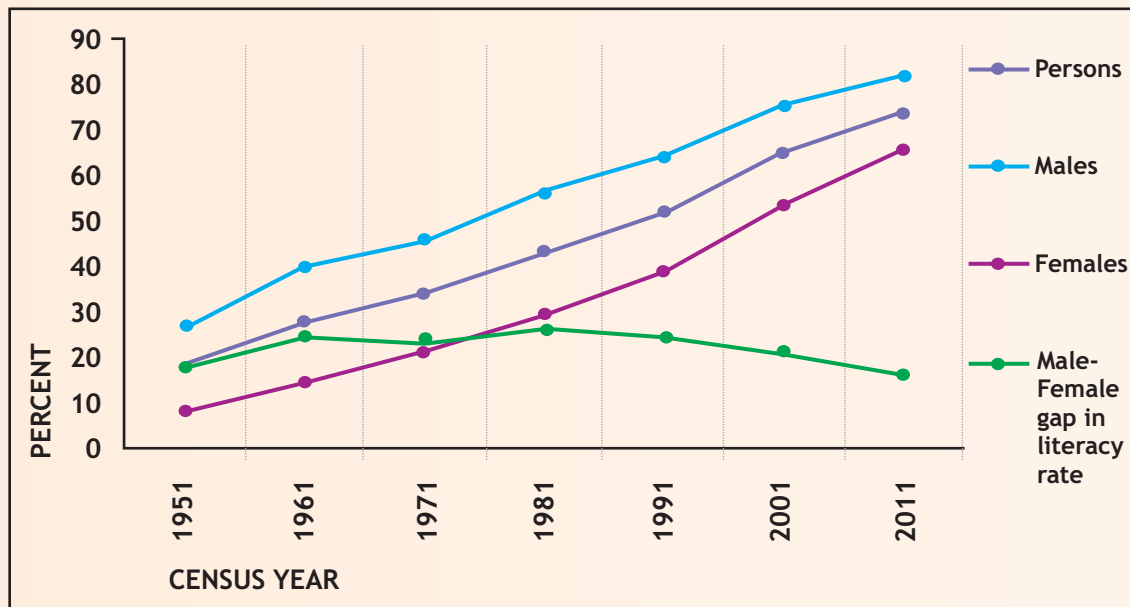


Fig. 2.4: Literacy Rate : 1951-2011

Unit End Reflections

Comprehension Questions

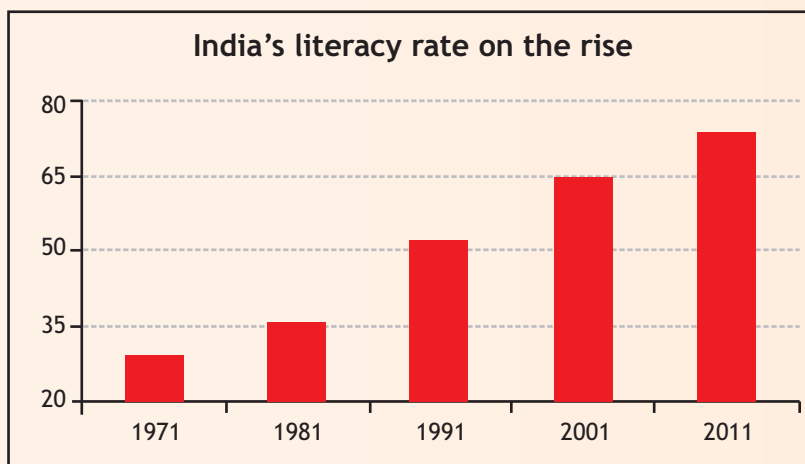
1. What is education?
2. Why do we need education?
3. What role is played by education in the development of an individual?
4. Write a short note on the journey of development of the Right to Education in India.
5. Mention the main causes for low female literacy rate in India.
6. Write about the initiatives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

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

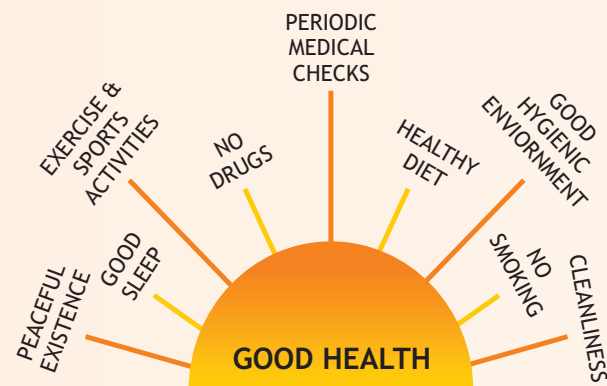


Fig. 3.1: Defining Good Health





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.

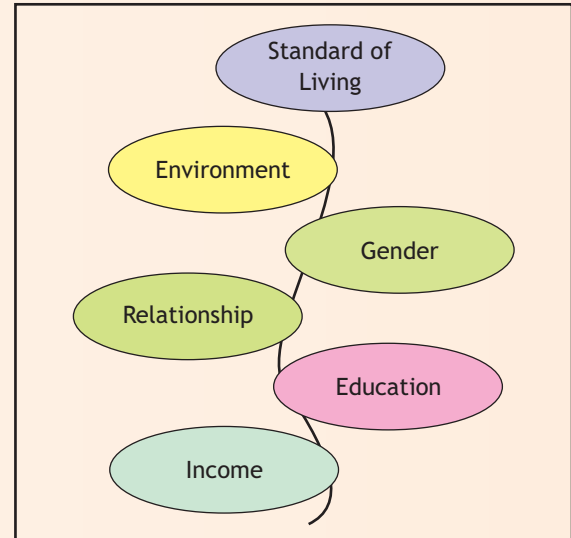
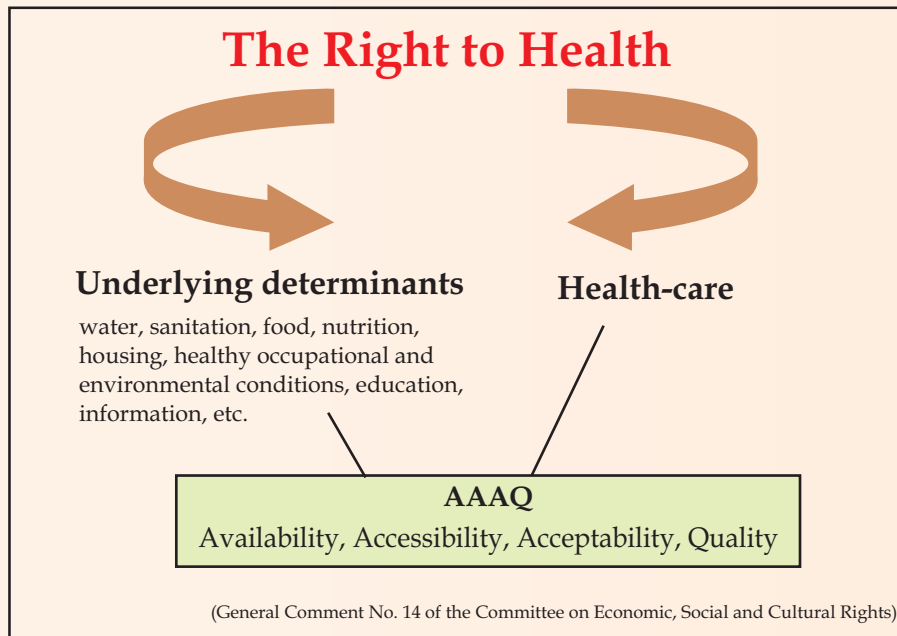


Fig.3.2: Factors Influencing Health

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 ones 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

(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

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.

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:

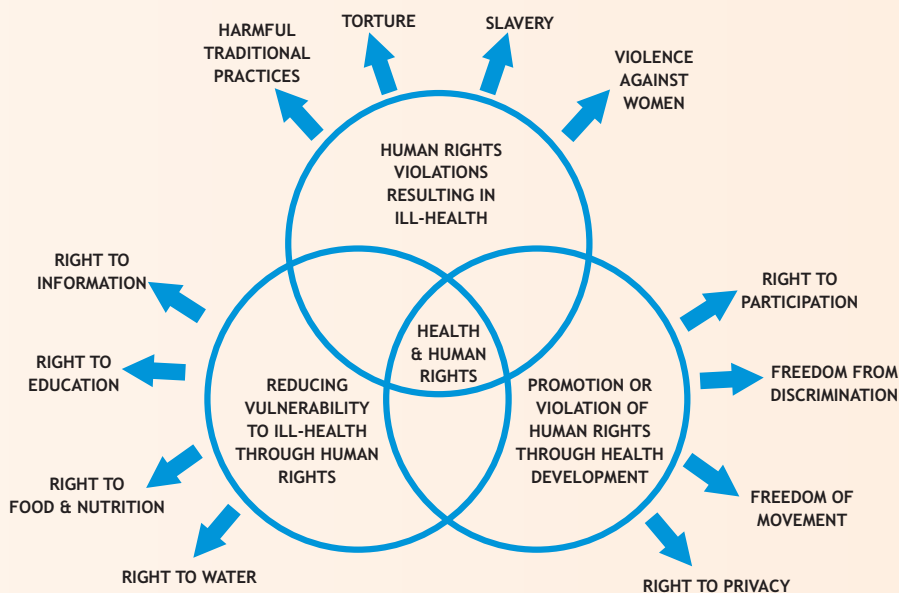
1. Government has taken an appropriate step towards good health by banning smoking.
2. It was unnecessary to ban smoking in public places.





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 - Maharajganj- with not much contact with the outside world.

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

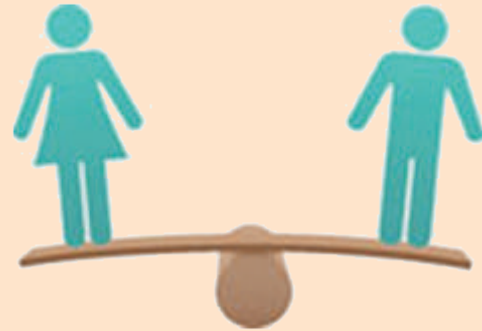
But all that changed once Rajni and other boys and girls of their village became a part of the 'Babu Bahini Manch'- a children's club - which sensitised children about gender equality.

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.

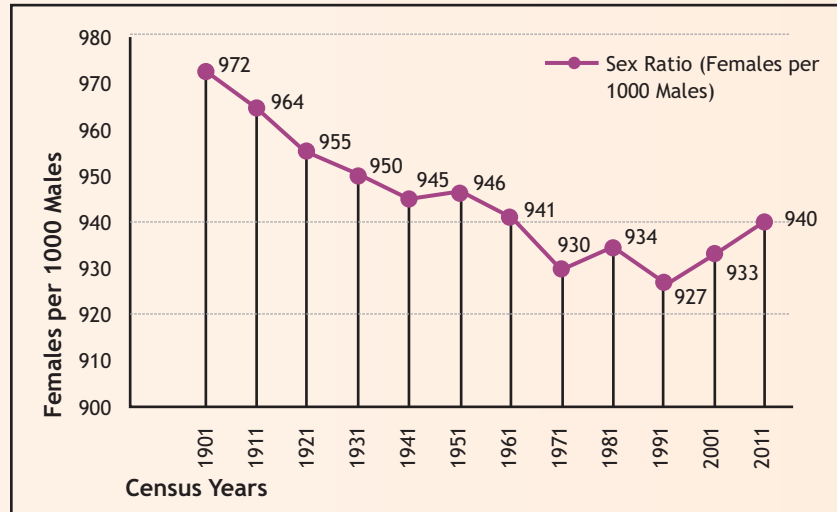


Fig. 3.4: Sex Ratio in India : 1901-2011

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





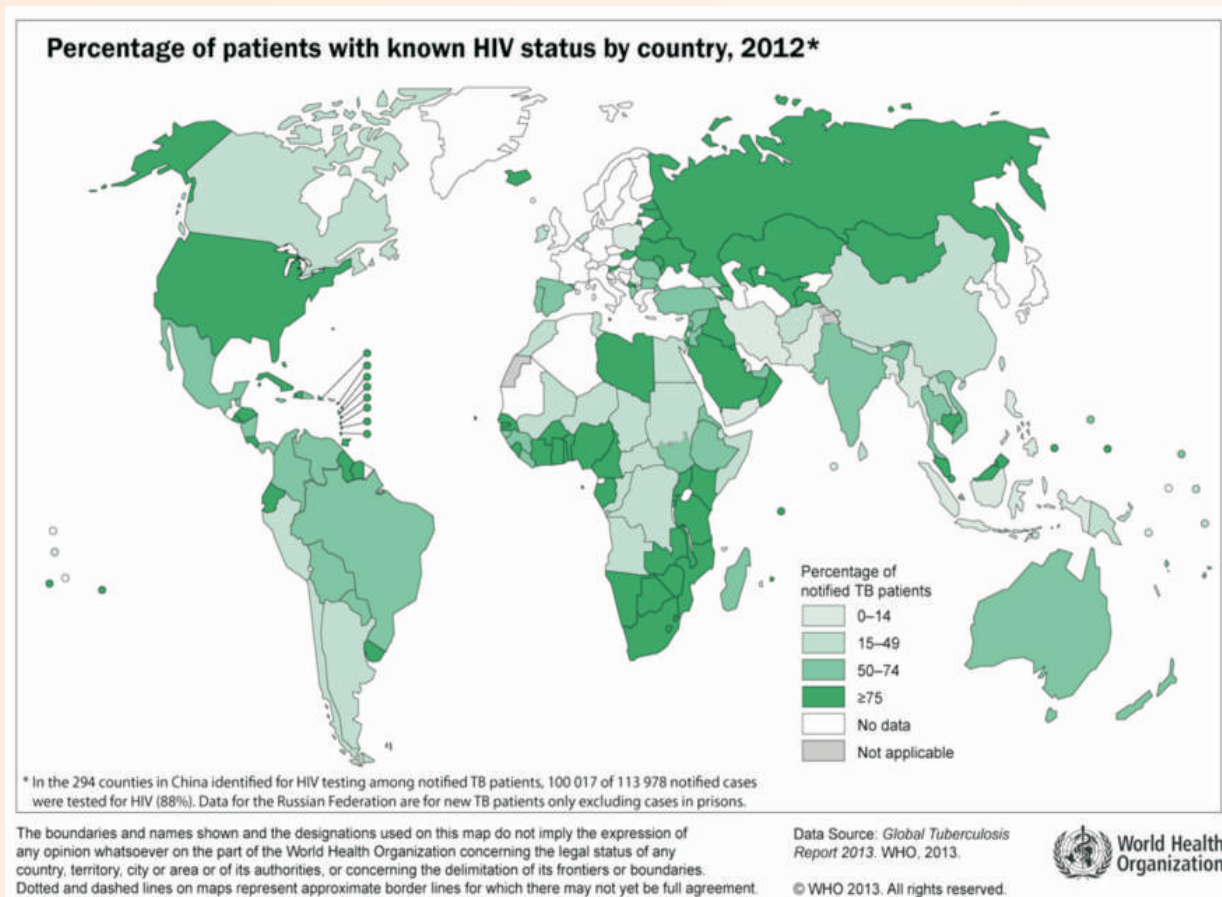
CHAPTER 4: HUMAN RIGHTS AND HIV /AIDS

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

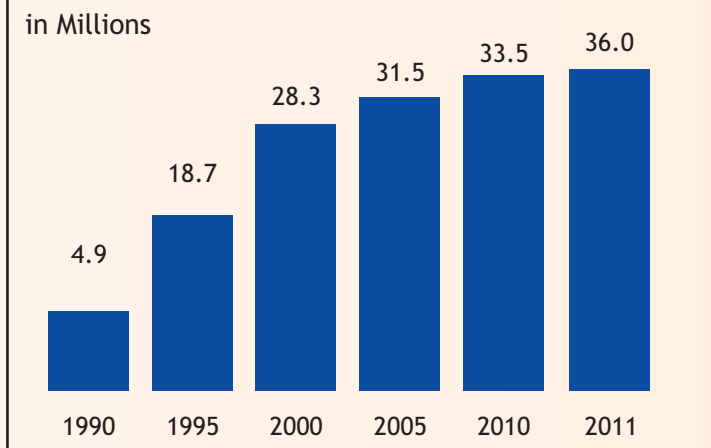


The last decades have also witnessed an increase in the development of international laws for eradication of discrimination based on race, gender, ethnicity and religion. But these international laws have failed to identify other kinds of discriminations which arise due to fear and lack of awareness 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



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).

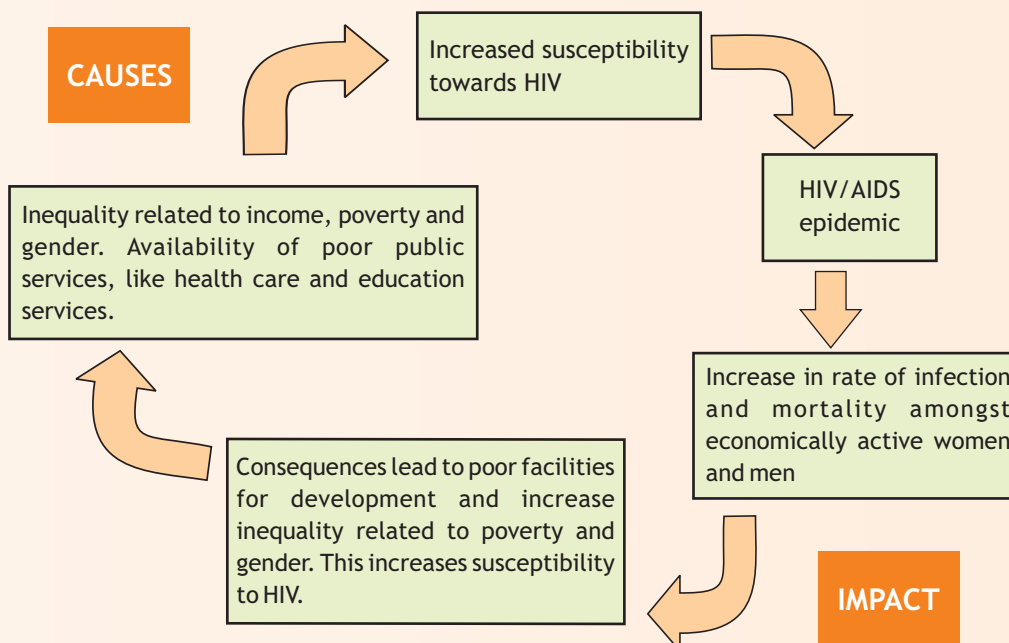
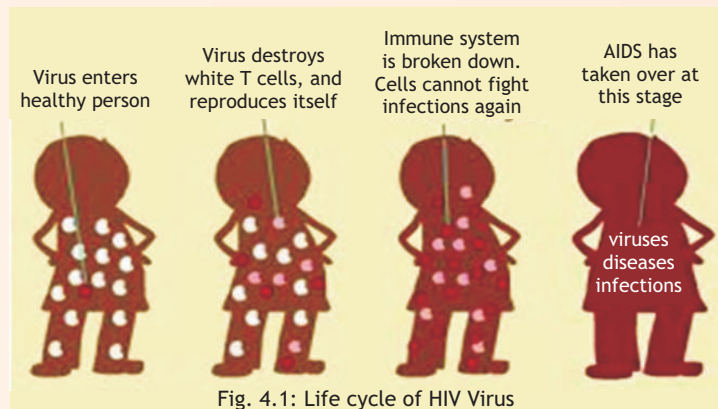


Fig. 4.2: Causes and impact of HIV / AIDS



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 proposition 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 ICDH *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

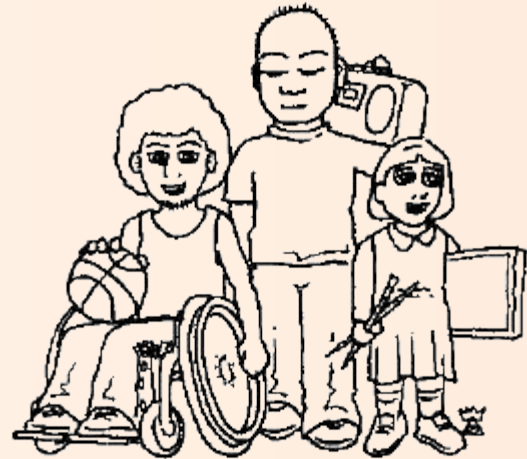




marginalized groups, people with disabilities too have now been conferred with the basic rights.

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 Puraskar 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 Samridhhi 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 alongwith 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 disabled 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.

enjoying a healthy diet is all about

getting the balance right

fruit & vegetables

bread, other cereals & potatoes



meat, fish & alternatives

milk & dairy foods

foods containing fat, foods & drinks containing sugar

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

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?



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

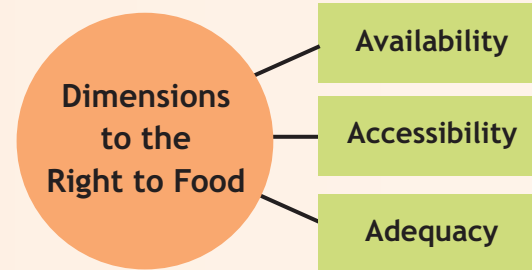
Three dimensions to the right to food have been defined:

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 to 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 ones 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 not able 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 Samridhhi 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.