

**MARUDHAR KESARI JAIN COLLEGE FOR WOMEN, VANIYAMBADI**  
**PG AND RESEARCH DEPARTMENT OF BUSINESS ADMINISTRATION**

**SUBJECT NAME : HUMAN RIGHTS**

**SUBJECT CODE : 23PHR20**

**CLASS : I MBA (HRM)**

**SYLLABUS**

**Structure of Units:**

- Human rights- Concepts & Nature
- Human Rights: Meaning, Definition, Nature, Content- Legitimacy of Human Rights- Origin and Development of Human Rights- Theories — Principles of Magna Carta — Modern Movements of Human Rights — The Future of Human Rights.

**Course Objectives**

1. Human Rights are the rights of all Human Beings. They have universal application. Awareness about Human Rights and concern for its protection has become an important issue after the second world war and paved way for world Nations to come together for acceptance of Universal Declaration of Human Rights.
2. The role of UN in protecting and promoting awareness of Human Rights is highly significant. The binding nature of the International Conventions and Covenants are still a dilemma. The persuasive force in case of violation of human rights by International community is an area of concern. In the absence of National legislations enforcement of these rights remain as one farce.
3. To trace the development of regional instruments drafted aiming at protection of Human Rights and its enforceability.
4. The Indian perspective of protection of Human Rights vide its Legislations , the

Constitution of India more read by its language, the Fundamental rights, Duties and Directive Principles of the State Policy has been elicited. The response shown by Indian judiciary and the expression of judicial activism is highlighted. The development of Human Rights jurisprudence in India is traced.

5. The Special legislations and the enforcement machineries remain as a watch dog in the due enforcement of Human Rights in India. The duty to protect human right of all individuals more particularly those are vulnerable remains more as a National obligation. The course intends to evaluate the Redressal mechanisms practiced in India.

#### Course Out Comes

1. After studying unit-1, the student will be able to know the nature of human rights its origin , the theories, the movements in the march of human rights and the facets of future of humanrights.
2. After studying unit-2, the student will be able to know the international dimension of human rights, the role of UN and the global effort in formulating conventions and declarations
3. After studying unit-3, the student will be able to Perceive the regional developments of human rights in Europe , Africa and Asia and the enforceable value of human rights in international arena.
4. After studying unit-4, the student will be able to have knowledge on the human rights perspectives in India, more developed by its constitution and special legislations
5. After studying unit-5, the student will be able to know the redressal mechanism made available in case of human rights violation confined to India.



## Unit-I

### Meaning And Definition of human rights

Human rights refer to the fundamental rights and freedoms that every individual is inherently entitled to, simply by virtue of being human. These rights are considered universal, inalienable, and indivisible, meaning they apply to all people, cannot be taken away, and are interconnected.

The concept of human rights is rooted in the idea that every person deserves to be treated with dignity, equality, and respect, regardless of their race, ethnicity, gender, religion, nationality, or any other distinguishing characteristic. Human rights encompass a broad range of civil, political, economic, social, and cultural rights.

The fundamental principles underlying human rights include:

1. **Universality:** Human rights apply to all individuals, irrespective of their background or circumstances. They are not contingent upon citizenship, nationality, or any other criteria.
2. **Inalienability:** Human rights are inherent to each person and cannot be surrendered, transferred, or taken away. Even in situations where legal authorities may limit certain rights temporarily, the core principles remain intact.
3. **Indivisibility:** Human rights are interdependent and interconnected. The fulfillment of one right often contributes to the realization of others. For example, the right to education can support the right to work and the right to health.
4. **Equality and Non-discrimination:** Human rights emphasize equality and prohibit discrimination based on factors such as race, gender, religion, or social status. All individuals are entitled to the same rights and protections.
5. **Human Dignity:** Human rights are grounded in the inherent dignity of every person. They emphasize the worth and value of each individual, promoting a world where everyone can live free from fear, oppression, and deprivation.

International documents, such as the Universal Declaration of Human Rights (UDHR) adopted by the United Nations in 1948, outline a comprehensive list of human rights. Over time, various treaties and conventions have been

established to protect and promote these rights at regional and national levels. Governments, organizations, and individuals play roles in upholding human rights, and violations are subject to scrutiny and condemnation by the international community.

## Nature and content of human rights

The nature and content of human rights encompass a broad spectrum of principles and entitlements that are considered fundamental to the well-being and dignity of individuals. Human rights can be categorized into different types, including civil and political rights, economic and social rights, and cultural rights. Here's an overview of the nature and content of these rights:

### 1. Civil and Political Rights:

- **Right to Life:** Every person has the right to life, and no one shall be arbitrarily deprived of their life.
- **Freedom from Torture and Inhuman Treatment:** Individuals have the right to be free from torture, cruel, or degrading treatment or punishment.
- **Freedom of Expression:** The right to express opinions and ideas without fear of censorship or punishment.
- **Right to a Fair Trial:** Everyone is entitled to a fair and public hearing by an independent and impartial tribunal.

### 2. Economic and Social Rights:

- **Right to Work:** The right to work in just and favorable conditions, as well as the right to form and join trade unions.
- **Right to Education:** Everyone has the right to education, which should be freely available, at least at the elementary and fundamental stages.
- **Right to Health:** The right to the highest attainable standard of physical and mental health.
- **Right to Adequate Standard of Living:** This includes the right to food, clothing, housing, and a standard of living adequate for the health and well-being of oneself and one's family.

### 3. Cultural Rights:

- **Right to Participate in Cultural Life:** The right to participate in the cultural life of the community, enjoy the arts, and share in scientific advancement.
- **Right to Education in One's Culture:** The right to education that respects and promotes one's own cultural identity.
- **Right to Freedom of Thought, Conscience, and Religion:** The right to freedom of thought, conscience, and religion, including the freedom to change one's religion or belief.

#### 4. **Group and Collective Rights:**

- **Rights of Minorities:** Protection of the rights of individuals belonging to minority groups to enjoy their own culture, practice their own religion, and use their own language.
- **Right to Self-Determination:** The right of all people to freely determine their political status, pursue economic, social, and cultural development, and dispose of their natural wealth and resources.

#### 5. **Environmental Rights:**

- **Right to a Healthy Environment:** The right to live in an environment that supports overall well-being, free from pollution and ecological degradation.

These rights are often articulated in international human rights instruments such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR), among others. While the specific content may vary across cultures and legal systems, the core principles remain consistent in promoting human dignity, equality, and justice.

### Legitimacy of human rights

The legitimacy of human rights is a complex and debated concept, touching on philosophical, ethical, legal, and cultural dimensions. The legitimacy of human rights is often grounded in the following arguments:

#### 1. **Inherent Human Dignity:**

- **Philosophical Basis:** Many argue that human rights derive from the inherent dignity of every individual. This perspective asserts that human

beings possess inherent worth and that certain rights are necessary to protect and promote this dignity.

## 2. Universal Morality:

- **Ethical Perspective:** Human rights are often seen as grounded in universal moral principles. Regardless of cultural, religious, or political differences, there are common ethical standards that should be respected and upheld by all societies.

## 3. International Legal Framework:

- **Legal Basis:** Human rights have gained legitimacy through the development of international legal instruments and treaties. Agreements such as the Universal Declaration of Human Rights (UDHR) and various international conventions provide a legal framework for the protection and promotion of human rights.

## 4. Protection Against Tyranny:

- **Political Justification:** Human rights are seen as essential for protecting individuals against the potential abuses of power by governments or other authorities. They provide a framework for holding governments accountable and ensuring that individuals are not subjected to arbitrary treatment or oppression.

## 5. Common Human Experience:

- **Societal Perspective:** Human rights are often considered legitimate because they reflect shared values and experiences across diverse societies. The idea is that certain rights are necessary for people to lead fulfilling lives and participate fully in society.

## Origin and Development of human rights

The concept and development of human rights have deep historical roots and have evolved over centuries. The idea of rights and protections for individuals can be traced through various cultural, religious, and philosophical traditions. Here is a brief overview of the origin and development of human rights:

## 1. Ancient Civilizations:

- **Greco-Roman Tradition:** Ancient Greek and Roman philosophers, such as Aristotle and Cicero, discussed ideas related to justice, equality, and

the inherent worth of individuals. Concepts like "natural law" and the idea that individuals have certain rights by virtue of being human were present in these early philosophical discussions.

- **Religious Traditions:** Various religious texts, including the Bible, the Quran, and Hindu scriptures, contain principles that emphasize the dignity and worth of individuals. These texts often provide a moral and ethical foundation for the idea of human rights.

## 2. Medieval and Renaissance Periods:

- **Magna Carta (1215):** Often considered a precursor to modern human rights, the Magna Carta was a medieval document that limited the powers of the monarch and asserted certain legal rights for subjects.
- **Natural Law Philosophy:** Thinkers like Thomas Aquinas in the medieval period and later philosophers during the Renaissance, such as Hugo Grotius, developed natural law theories that argued for the existence of fundamental rights

The concept of human rights has a long and complex history, evolving over centuries and influenced by various philosophical, religious, and cultural traditions. While the modern understanding of human rights is rooted in the aftermath of World War II, it has historical antecedents that can be traced back to different civilizations.

## 1. Ancient World:

- **Greece and Rome:** The idea of inherent dignity and certain entitlements for individuals can be seen in the works of Greek philosophers such as Plato and Aristotle. In Rome, the concept of "ius naturale" (natural law) implied a set of universal principles governing human behavior.

## 2. Religious Influence:

- **Judeo-Christian Traditions:** Concepts of justice, fairness, and the inherent worth of individuals are present in Judeo-Christian scriptures. The idea of the sanctity of life and the moral responsibility to treat others justly has influenced the development of human rights.

## 3. Medieval Period:

- **Magna Carta (1215):** This historical document, signed by King John of England, limited the powers of the monarchy and emphasized the



protection of individual liberties. While it primarily addressed the rights of the aristocracy, it laid the groundwork for the rule of law.

#### 4. **Enlightenment Era:**

- The 17th and 18th centuries witnessed the rise of Enlightenment thinkers who championed reason, individual rights, and the social contract theory. Philosophers such as John Locke, Jean-Jacques Rousseau, and Voltaire contributed to the development of ideas that underpin modern human rights.

#### 5. **19th Century:**

- **Abolition of Slavery:** The 19th century saw the abolitionist movement gaining momentum, challenging the notion that some individuals could be treated as property. The struggle against slavery contributed to the recognition of universal human rights.

#### 6. **20th Century:**

- **World Wars and the United Nations:** The atrocities of World War II, including the Holocaust, led to a global consensus on the need to prevent such horrors in the future. The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948, marked a significant milestone in the codification of human rights principles.
- **Post-WWII Tribunals:** The Nuremberg Trials and subsequent international tribunals held individuals accountable for war crimes, establishing the precedent that individuals could be held responsible for human rights violations.

#### 7. **Contemporary Developments:**

- Since the mid-20th century, human rights have become an integral part of international law, with numerous treaties and conventions addressing specific rights and protections.
- Movements for civil rights, women's rights, LGBTQ+ rights, and indigenous rights have expanded the scope of human rights, emphasizing inclusivity and non-discrimination.

The development of human rights is an ongoing process, shaped by evolving societal values, legal frameworks, and global challenges. While progress has

been made, challenges persist in ensuring the universal realization and protection of human rights for all.

## Theories of Human Rights

Various theories have been proposed to provide a conceptual framework for understanding and justifying human rights. These theories offer different perspectives on the nature, foundation, and justification of human rights. Here are some prominent theories:

### 1. Natural Law Theory:

- **Basis:** Natural law theorists argue that human rights are derived from a higher, objective moral order or natural law that exists independently of human-made laws. These rights are considered inherent in human nature.
- **Key Thinkers:** Thomas Aquinas, John Locke, and Hugo Grotius are associated with developing natural law theories that influenced the idea of inherent human rights.

### 2. Moral Universalism:

- **Basis:** Moral universalism asserts that there are fundamental moral principles that apply universally to all individuals, regardless of cultural or societal differences. Human rights are seen as a reflection of these universally valid moral principles.
- **Key Thinkers:** Philosophers like Immanuel Kant have contributed to moral universalism, emphasizing the importance of treating individuals with inherent dignity and respect.

### 3. Contractarianism:

- **Basis:** Contractarian theories, often associated with social contract theory, suggest that individuals agree to a social contract to live together in a society. In this hypothetical agreement, individuals agree to certain rights and responsibilities, forming the basis of human rights.
- **Key Thinkers:** John Locke, Jean-Jacques Rousseau, and Thomas Hobbes are prominent figures in social contract theory.

### 4. Utilitarianism:

- **Basis:** Utilitarianism, proposed by Jeremy Bentham and John Stuart Mill, asserts that actions are morally right if they maximize overall happiness or pleasure. Human rights are considered instrumental in achieving the greatest happiness for the greatest number.
- **Criticism:** Critics argue that utilitarianism may not adequately protect individual rights in situations where sacrificing the rights of a few could lead to greater overall happiness.

#### 5. **Feminist Theories:**

- **Basis:** Feminist theories emphasize the gendered nature of human rights and argue for the inclusion of women's perspectives. They highlight the need to address systemic gender inequalities and recognize women's rights as integral to the broader human rights framework.
- **Key Contributions:** Feminist scholars like Carol Gilligan, Martha Nussbaum, and others have contributed to feminist theories of human rights.

#### 6. **Capabilities Approach:**

- **Basis:** Developed by Amartya Sen and Martha Nussbaum, the capabilities approach focuses on the freedoms and opportunities individuals have to lead a fulfilling life. It emphasizes the importance of enhancing people's capabilities and expanding their opportunities as a central aspect of human rights.
- **Key Concepts:** The approach identifies a set of core capabilities, including health, education, and political participation, that contribute to a person's well-being.

#### 7. **Critical Theories:**

- **Basis:** Critical theories, including critical legal studies and critical race theory, examine the social and structural factors that impact the realization of human rights. They highlight issues of power, inequality, and systemic injustices.
- **Key Contributions:** Scholars like Kimberlé Crenshaw (critical race theory) and Duncan Kennedy (critical legal studies) have contributed to critical perspectives on human rights.

#### 8. **Postcolonial Perspectives:**

- **Basis:** Postcolonial theories critique the historical and cultural context in which human rights have been formulated and applied. They highlight the impact of colonialism and the need to consider diverse cultural perspectives.
- **Key Thinkers:** Postcolonial scholars like Frantz Fanon and Gayatri Chakravorty Spivak contribute to postcolonial critiques of human rights.

These theories provide diverse lenses through which to understand human rights, and scholars often draw on multiple perspectives to address the complexity of human rights issues in various contexts. The debates among these theories contribute to ongoing discussions about the nature and legitimacy of human rights.

## Human Rights-Principles of Magna Carta

The Magna Carta, also known as the Great Charter, is a historical document that was originally issued in 1215 during the reign of King John of England. While the Magna Carta was primarily a response to the oppressive rule of the monarch at the time, it contains several principles that are considered foundational to the development of human rights. The key principles of the Magna Carta include:

### 1. Rule of Law:

- The Magna Carta emphasizes the principle that everyone, including the king, is subject to the law. It establishes the idea that the law should be a source of protection for individuals and a check on arbitrary and unjust actions by those in power.

### 2. Due Process:

- The document includes provisions that protect individuals from arbitrary arrest and imprisonment. It establishes the principle that no free person should be deprived of their life, liberty, or property without lawful judgment by their peers or by the law of the land.

### 3. Protection of Property Rights:

- The Magna Carta addresses issues related to property rights and inheritance, ensuring that individuals have protection against arbitrary

seizures of property. It emphasizes the importance of fair treatment in matters related to land and possessions.

#### **4. Limits on Taxation:**

- One of the grievances addressed in the Magna Carta relates to excessive taxation. The document establishes the principle that the king cannot impose taxes without the consent of his barons, providing a foundation for the idea that taxation should be reasonable and just.

#### **5. Access to Justice:**

- The Magna Carta emphasizes the right to access justice and seeks to ensure that justice is not denied or delayed. It establishes the principle that individuals have a right to a fair trial, and justice should be administered without bias.

#### **6. Habeas Corpus:**

- While the Magna Carta itself does not explicitly mention habeas corpus, it laid the groundwork for the development of this crucial legal principle. Habeas corpus protects against unlawful detention by requiring a person under arrest to be brought before a court or judge.

#### **7. Legal Standardization:**

- The Magna Carta contributes to the development of standardized legal procedures. It establishes the idea that legal processes should be uniform and consistent, providing a basis for the fair and predictable administration of justice.

#### **8. Influence on Later Legal Documents:**

- The Magna Carta's principles have had a lasting impact on the development of constitutional and legal traditions. Many of its ideas influenced subsequent legal documents, including the U.S. Constitution and the Universal Declaration of Human Rights.

While the Magna Carta was initially a product of its time and primarily addressed the concerns of the medieval barons, its principles have become enduring foundations for the development of constitutional and human rights principles. The document played a pivotal role in shaping the legal and philosophical landscape, laying the groundwork for the protection of individual liberties and the establishment of the rule of law.

## Modern Movements of Human Rights

Numerous modern movements and initiatives advocate for the protection and promotion of human rights worldwide. These movements address a wide range of issues, including civil and political rights, economic and social rights, environmental justice, gender equality, LGBTQ+ rights, and more. Here are some prominent modern human rights movements:

### 1. **Black Lives Matter (BLM):**

- **Focus:** Addresses systemic racism, police brutality, and injustice against Black individuals.
- **Key Actions:** Organizes protests, advocates for policy reforms, and raises awareness about racial inequality.

### 2. **Me Too Movement:**

- **Focus:** Advocates against sexual harassment and assault, particularly in the workplace.
- **Key Actions:** Encourages survivors to share their experiences, exposes perpetrators, and calls for cultural and institutional changes.

### 3. **Climate Justice Movement:**

- **Focus:** Addresses the impact of climate change on vulnerable communities and advocates for sustainable and equitable environmental policies.
- **Key Actions:** Participates in global climate strikes, advocates for policy changes, and promotes environmental justice.

### 4. **#FreeHongKong Movement:**

- **Focus:** Advocates for democracy, human rights, and autonomy for Hong Kong in the face of perceived encroachments by the Chinese government.
- **Key Actions:** Organizes protests, advocates for international support, and raises awareness about the situation in Hong Kong.

### 5. **Transgender Rights Movement:**

- **Focus:** Advocates for the rights and dignity of transgender individuals, including legal recognition, protection against discrimination, and access to healthcare.
- **Key Actions:** Raises awareness about transgender issues, lobbies for legal reforms, and promotes inclusivity.

#### 6. **Refugee and Migrant Rights Movement:**

- **Focus:** Advocates for the rights and fair treatment of refugees and migrants, including access to asylum, protection from discrimination, and humane living conditions.
- **Key Actions:** Provides assistance to refugees, raises awareness about migration issues, and lobbies for policy changes.

#### 7. **Indigenous Rights Movement:**

- **Focus:** Advocates for the rights of indigenous peoples, including land rights, cultural preservation, and protection against discrimination.
- **Key Actions:** Raises awareness about indigenous issues, works towards legal recognition and protection, and supports indigenous-led initiatives.

#### 8. **#SayHerName:**

- **Focus:** Addresses police violence against Black women and girls.
- **Key Actions:** Highlights cases of police brutality against Black women, seeks justice for victims, and advocates for policy changes.

#### 9. **Marriage Equality and LGBTQ+ Rights:**

- **Focus:** Advocates for the rights of the LGBTQ+ community, including marriage equality, anti-discrimination protections, and recognition of diverse gender identities.
- **Key Actions:** Works towards legal reforms, raises awareness about LGBTQ+ issues, and supports LGBTQ+ individuals globally.

#### 10. **Access to Education Movement:**

- **Focus:** Advocates for the right to education for all, with a particular emphasis on addressing barriers faced by marginalized and underprivileged communities.
- **Key Actions:** Works towards inclusive education policies, addresses disparities, and raises awareness about the importance of education.

These movements leverage various strategies, including grassroots activism, social media campaigns, legal advocacy, and public awareness initiatives, to address contemporary human rights challenges. They play a crucial role in shaping public discourse, influencing policy changes, and holding governments and institutions accountable for human rights violations.

## The Future of Human Rights

Predicting the future of human rights involves recognizing ongoing challenges, emerging trends, and potential shifts in global dynamics. Several factors will likely shape the future of human rights:

### 1. **Technology and Privacy:**

- Advances in technology, particularly in surveillance and data collection, pose challenges to privacy rights. Balancing technological innovation with the protection of individual privacy will be crucial.

### 2. **Artificial Intelligence (AI) and Automation:**

- The rise of AI and automation may impact employment and economic rights. Ensuring fair labor practices, social safety nets, and retraining programs will be essential.

### 3. **Climate Change and Environmental Rights:**

- The effects of climate change pose significant threats to the right to a healthy environment. Environmental justice movements and efforts to address climate-related displacement will likely become more prominent.

### 4. **Global Health Pandemics:**

- The response to global health crises, as demonstrated by events like the COVID-19 pandemic, will impact public health measures, vaccine distribution, and the right to healthcare. Balancing public health with individual liberties will be a continuing challenge.

### 5. **Migration and Refugee Rights:**

- Increasing displacement due to conflicts, climate change, and economic factors will require international cooperation to protect the rights of migrants and refugees. Addressing the root causes of migration will be crucial.

### 6. **Gender Equality and LGBTQ+ Rights:**

- Ongoing efforts for gender equality and LGBTQ+ rights will likely continue, with an emphasis on dismantling discriminatory laws, promoting inclusivity, and addressing violence and discrimination.

### 7. **Social and Economic Inequality:**

- Tackling growing economic disparities within and between countries will be crucial for ensuring social and economic rights. Addressing issues



such as wealth inequality and access to education and healthcare will remain central.

#### **8. Human Rights in the Digital Age:**

- Ensuring human rights protections in the digital space, including addressing online harassment, protecting freedom of expression, and preventing digital surveillance abuses, will be a key focus.

#### **9. Authoritarianism and Populism:**

- The rise of authoritarianism and populist movements presents challenges to human rights, emphasizing the importance of defending democratic institutions, civil liberties, and the rule of law.

#### **10. Global Governance and Cooperation:**

- Strengthening international institutions and fostering global cooperation will be essential for addressing transnational challenges, such as climate change, pandemics, and migration.

#### **11. Ethical Implications of Technology:**

- As technology continues to advance, ethical considerations around issues like genetic engineering, biotechnology, and neurotechnology will need to be addressed to protect human dignity and rights.

#### **12. Crisis Response and Humanitarian Rights:**

- The effectiveness of global responses to humanitarian crises, conflicts, and natural disasters will impact the protection of human rights in emergency situations.

#### **Reference Items: books, Journal**

- Protection Of Human Rights Act, 1993.
- Constitutional Law of India (3 Volumes) by Seervai H.M 2015
- The Human Rights Watch Global Report On Women's Human Rights 2000 Oxford Publication
- RS Sharma Perspectives In Human Rights Development
- Julies Stone Human Law And Human Justice 2000 Universal Publication
- Research Handbook On International Human Rights Law, Edited By Sarah Joseph & Edited By Sarah Joseph, Edward Elgar Publishing Limited USA

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**Structure of Units:**

- Human Rights – The International Perspective
- International human rights – Human Right concepts Prior and after World War II – UNO – Universal Declaration of Human Rights (UDHR) – International Covenant on Civil and Political Rights
- (ICCPR) – International Covenant on Economic, Social and Cultural Rights (ICESCR)- Optional Protocols- Human Right Declarations – Role of United Nation Commissions – Convention on the Elimination of All forms of Discrimination against women (CEDAW) – United Nations Convention against Torture (UNCAT) - United Nations Convention on the Rights of the Child (CRC or UNCRC)

## UNIT-II

### International human rights

International human rights refer to the basic rights and freedoms that all individuals are entitled to, regardless of nationality, ethnicity, gender, religion, or any other status. These rights are enshrined in various international instruments and agreements, with the Universal Declaration of Human Rights (UDHR) being a foundational document adopted by the United Nations General Assembly in 1948.

Key principles and features of international human rights include:

1. **Universality:** Human rights are considered universal and apply to all people, regardless of their location or cultural background.
2. **Inalienability:** Human rights are inherent to all individuals and cannot be surrendered or taken away. They are inalienable and cannot be transferred or forfeited.
3. **Interdependence and indivisibility:** Human rights are interconnected and mutually reinforcing. Civil, political, economic, social, and cultural rights are all interrelated and essential for the overall well-being of individuals.
4. **Equality and non-discrimination:** Human rights are to be enjoyed without discrimination of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.
5. **International instruments:** Various international treaties and conventions, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), provide a legal framework for the protection and promotion of human rights.
6. **Enforcement mechanisms:** International bodies and mechanisms, including the United Nations Human Rights Council (UNHRC), regional human rights courts, and treaty monitoring bodies, play a role in monitoring and enforcing human rights standards.

7. **State obligations:** States have the primary responsibility to respect, protect, and fulfill the human rights of their citizens. They are obligated to create and maintain conditions that allow individuals to enjoy their rights fully.
8. **Civil society and advocacy:** Non-governmental organizations (NGOs), human rights defenders, and civil society play a crucial role in promoting and protecting human rights by raising awareness, monitoring violations, and advocating for positive change.

While significant progress has been made in advancing human rights globally, challenges persist, and violations continue to occur. International efforts focus on promoting awareness, holding accountable those who violate human rights, and continually working towards a world where every individual can fully enjoy their fundamental rights and freedoms

## Human Right concepts Prior and after World War II

The concept of human rights underwent significant development and formalization before and after World War II. Before the war, there were early expressions of the idea of human rights, but it was the atrocities and widespread violations of human dignity during World War II that catalyzed international efforts to establish a more robust and universally accepted framework for human rights. Here's an overview of human rights concepts before and after World War II:

### Prior to World War II:

#### 1. Natural Law and Enlightenment Thought:

- Early formulations of human rights can be traced back to natural law theories and Enlightenment thinkers such as John Locke, Jean-Jacques Rousseau, and Montesquieu.
- These philosophers emphasized the inherent rights and dignity of individuals based on reason, nature, and a social contract.

#### 2. Declaration of the Rights of Man and of the Citizen (1789):

- The French Revolution produced the Declaration of the Rights of Man and of the Citizen, a foundational document proclaiming the rights of

individuals, including liberty, property, security, and resistance to oppression.

### **3. International Labor Organization (ILO):**

- The ILO, established in 1919, focused on labor rights and social justice. It set international labor standards and contributed to the development of workers' rights.

## **After World War II:**

### **1. Universal Declaration of Human Rights (1948):**

- The horrors of World War II, including the Holocaust and other atrocities, prompted the international community to establish a comprehensive human rights framework.
- The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly in 1948. It laid out a broad set of civil, political, economic, social, and cultural rights that should be universally protected.

### **2. Nuremberg Trials:**

- The Nuremberg Trials held after World War II were a key moment in establishing the principle that individuals could be held accountable for committing crimes against humanity, war crimes, and genocide.

### **3. International Human Rights Instruments:**

- The UDHR served as a foundation for subsequent international treaties and agreements, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both adopted in 1966.

### **4. Genocide Convention (1948):**

- The Genocide Convention, also adopted in 1948, focused specifically on preventing and punishing the crime of genocide.

### **5. Human Rights Institutions:**

- The United Nations established bodies and mechanisms, such as the United Nations Human Rights Council (UNHRC) and various treaty monitoring bodies, to monitor and promote human rights globally.

### **6. Post-Cold War Developments:**

- The end of the Cold War saw increased attention to human rights, with human rights considerations gaining prominence in international relations.

The period after World War II marked a turning point in the formalization and global recognition of human rights. The atrocities of the war underscored the need for a comprehensive and universal approach to protect the inherent dignity and rights of every individual. The ongoing work in the field of human rights continues to address new challenges and promote the universal realization of these fundamental principles.

UNO:

It seems like you are referring to the United Nations Organization (UNO), commonly known as the United Nations (UN). The United Nations is an international organization founded in 1945 after World War II to promote peace, security, cooperation, and development among member countries. Here are some key points about the United Nations:

1. **Founding Purpose:** The United Nations was established on October 24, 1945, with the primary goal of preventing future global conflicts and promoting international cooperation. Its founding charter outlines principles such as the sovereign equality of member states, the maintenance of international peace and security, and the promotion of human rights and social progress.
2. **Membership:** The UN has 193 member states, making it a nearly universal organization. Each member state is represented in the General Assembly, and the Security Council is responsible for maintaining international peace and security.
3. **Principal Organs:**
  - **General Assembly:** All member states are represented in the General Assembly, where they discuss and coordinate on a wide range of international issues. Each member has one vote.
  - **Security Council:** The Security Council is responsible for maintaining international peace and security. It has 15 members, including five

permanent members with veto power (China, France, Russia, the United Kingdom, and the United States).

- **Secretariat:** The Secretariat is headed by the Secretary-General, who is appointed by the General Assembly upon the recommendation of the Security Council. The Secretariat carries out the day-to-day work of the UN.

4. **Peacekeeping:** The United Nations is known for its peacekeeping operations, where military and civilian personnel are deployed to conflict zones to help maintain or restore peace. Peacekeeping missions are authorized by the Security Council.
5. **Human Rights:** The UN plays a central role in promoting and protecting human rights globally. The Universal Declaration of Human Rights and various international treaties form the basis for these efforts.
6. **Development:** The UN is involved in various development activities through agencies such as the United Nations Development Programme (UNDP), UNICEF, and the World Health Organization (WHO). The Sustainable Development Goals (SDGs) provide a framework for global development efforts.
7. **International Law:** The UN helps develop and codify international law through conventions, treaties, and agreements. The International Court of Justice, based in The Hague, serves as the principal judicial organ of the UN.
8. **Global Challenges:** The UN addresses a wide range of global challenges, including climate change, poverty, inequality, terrorism, and public health crises.

While the UN has been successful in many areas, it also faces criticism for certain limitations, such as the potential for bureaucratic inefficiency and the constraints imposed by the veto power of the permanent members of the Security Council. Nevertheless, the organization remains a crucial forum for international cooperation and diplomacy.

## Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR) is a landmark document adopted by the United Nations General Assembly on December 10,

1948. It represents a foundational milestone in the history of human rights, establishing a comprehensive framework for the protection and promotion of fundamental human rights and freedoms. The UDHR was a response to the atrocities of World War II and an expression of the international community's commitment to prevent the recurrence of such horrors.

Key features of the Universal Declaration of Human Rights include:

### **1. Preamble:**

- The preamble of the UDHR sets forth the vision and purpose of the declaration, emphasizing the recognition of the inherent dignity and equal rights of all members of the human family.

### **2. Articles:**

- The UDHR consists of 30 articles that enumerate a broad spectrum of civil, political, economic, social, and cultural rights.
- Articles 1 and 2 assert the principle of equality and non-discrimination, declaring that all human beings are born free and equal in dignity and rights.
- Subsequent articles address the right to life, liberty, and security of person; freedom from torture and slavery; the right to asylum; the right to work and education; and the right to participate in government, among others.

### **3. Civil and Political Rights:**

- The UDHR includes provisions affirming the right to freedom of expression, religion, and peaceful assembly. It also emphasizes the right to a fair trial, the presumption of innocence, and protection against arbitrary arrest and detention.

### **4. Economic, Social, and Cultural Rights:**

- The declaration recognizes the right to work, the right to education, and the right to participate in cultural life. It emphasizes the right to an adequate standard of living, including food, clothing, housing, and medical care.

### **5. International Character:**

- The UDHR is a non-binding declaration, meaning it is not a legally binding treaty. However, it has gained considerable moral and political



authority and has influenced the development of international human rights law.

#### **6. Impact:**

- The UDHR has served as a foundation for subsequent international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).
- It has inspired national constitutions, laws, and policies around the world, shaping the human rights discourse globally.

#### **7. Anniversary Celebration:**

- December 10 is celebrated annually as Human Rights Day, commemorating the day the UDHR was adopted.

The Universal Declaration of Human Rights reflects the commitment of the international community to the principles of human dignity, equality, and justice. While challenges persist in the full realization of human rights globally, the UDHR remains a crucial document guiding efforts to protect and promote the rights of individuals everywhere.

### **– International Covenant on Civil and Political Rights (ICCPR)**

The International Covenant on Civil and Political Rights (ICCPR) is one of the key international treaties that elaborate on and further codify the principles outlined in the Universal Declaration of Human Rights (UDHR). Adopted by the United Nations General Assembly on December 16, 1966, the ICCPR entered into force on March 23, 1976. Together with the International Covenant on Economic, Social and Cultural Rights (ICESCR), the ICCPR forms the International Bill of Human Rights.

Key features of the ICCPR include:

#### **1. Civil and Political Rights:**

- The ICCPR focuses on civil and political rights, elaborating on the rights mentioned in the UDHR. It includes provisions related to the right to life,

freedom from torture, freedom of expression, freedom of assembly and association, and the right to a fair trial.

## **2. Universal Applicability:**

- Like the UDHR, the ICCPR is considered a universal treaty, meaning it is intended to be applicable to all people worldwide. States that ratify the ICCPR commit to respecting and ensuring the rights outlined in the covenant.

## **3. State Parties:**

- As of my knowledge cutoff in January 2022, the ICCPR has been ratified by a large number of countries. States that become parties to the covenant are legally bound to implement its provisions and report regularly to the Human Rights Committee, a body of independent experts established by the ICCPR to monitor its implementation.

## **4. Optional Protocols:**

- The ICCPR has two optional protocols:
  - The First Optional Protocol allows individuals to bring complaints (communications) to the Human Rights Committee after exhausting domestic remedies.
  - The Second Optional Protocol aims to abolish the death penalty. States that ratify this protocol commit to taking steps towards the abolition of the death penalty within their jurisdiction.

## **5. Human Rights Committee:**

- The Human Rights Committee is responsible for monitoring the implementation of the ICCPR. It reviews periodic reports submitted by State Parties and may also consider individual complaints under the First Optional Protocol.

## **6. Non-Discrimination:**

- The ICCPR, in its Article 2, prohibits discrimination on various grounds, including race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.

## **7. Derogation:**

- The ICCPR allows for the temporary suspension of certain rights during times of public emergency, but such measures must be strictly necessary and not discriminatory.

## **8. Right to Self-Determination:**

- Article 1 of the ICCPR recognizes the right of all peoples to self-determination. This right is understood as the right of a people to freely determine their political status and to pursue their economic, social, and cultural development.

The ICCPR, along with the ICESCR and the UDHR, forms a comprehensive framework for the protection and promotion of human rights. It reflects the commitment of the international community to safeguarding the civil and political liberties of individuals around the world.

## International Covenant on Economic, Social and Cultural Rights (ICESCR)

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a major international human rights treaty that, along with the International Covenant on Civil and Political Rights (ICCPR), constitutes the International Bill of Human Rights. Adopted by the United Nations General Assembly on December 16, 1966, the ICESCR entered into force on January 3, 1976. It focuses on the protection and promotion of economic, social, and cultural rights, complementing the civil and political rights covered by the ICCPR.

Key features of the ICESCR include:

### 1. **Economic, Social, and Cultural Rights:**

- The ICESCR outlines a broad range of economic, social, and cultural rights, including the right to work, the right to an adequate standard of living, the right to education, the right to health, and the right to participate in cultural life.

### 2. **Progressive Realization:**

- The ICESCR recognizes the principle of "progressive realization," acknowledging that some of the rights it enunciates may be achieved gradually over time, depending on a country's economic resources. States parties commit to taking steps to the maximum of their available resources to achieve these rights.

### 3. **Obligations of State Parties:**

- States that ratify the ICESCR commit to taking measures to progressively achieve the full realization of economic, social, and cultural rights. They are required to submit periodic reports to the Committee on Economic, Social and Cultural Rights (CESCR), an independent body of experts that monitors the implementation of the covenant.

#### **4. Equality and Non-Discrimination:**

- The ICESCR, in its Article 2, obliges State Parties to undertake to guarantee that the rights recognized in the covenant are exercised without discrimination of any kind, including discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.

#### **5. Right to Work:**

- Article 6 of the ICESCR recognizes the right to work, which includes the right of everyone to the opportunity to gain his living by work that he freely chooses or accepts.

#### **6. Right to Education:**

- Article 13 of the ICESCR recognizes the right to education as a fundamental human right. It emphasizes that education should be directed to the full development of the human personality and the sense of its dignity.

#### **7. Right to Health:**

- Article 12 of the ICESCR recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

#### **8. Cultural Rights:**

- The ICESCR recognizes the right of everyone to take part in cultural life and enjoy the benefits of scientific progress and its applications.

#### **9. Optional Protocol:**

- An Optional Protocol to the ICESCR was adopted in 2008, allowing individuals or groups to submit complaints to the CESCR after exhausting domestic remedies.

The ICESCR, alongside the ICCPR and the UDHR, plays a crucial role in the promotion and protection of human rights. It underscores the interconnectedness of civil and political rights with economic, social, and

cultural rights, emphasizing the indivisibility and interdependence of all human rights.

## **Optional Protocols- Human Right Declarations**

Optional Protocols are additional legal instruments that can be adopted by states to enhance and supplement the provisions of international human rights treaties. They provide additional mechanisms for the protection and promotion of specific rights or create procedures for individuals or groups to submit complaints about violations of those rights. Here are a couple of examples related to human rights declarations:

### **1. Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP1):**

- The First Optional Protocol to the ICCPR was adopted in 1966 and entered into force in 1976. This protocol establishes an individual complaints mechanism, allowing individuals or groups to submit complaints to the Human Rights Committee after they have exhausted domestic remedies. This mechanism provides an avenue for individuals to seek redress for alleged violations of their civil and political rights under the ICCPR.

### **2. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC):**

- This protocol, adopted in 2000, focuses on one specific aspect of the Convention on the Rights of the Child (CRC). It establishes procedures for the involvement of children in armed conflict. The protocol sets 18 as the minimum age for compulsory recruitment and requires states parties to take measures to prevent recruitment and use of children in hostilities.

### **3. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OP-SC):**

- Adopted in 2000, this protocol supplements the CRC and addresses the sale of children, child prostitution, and child pornography. It establishes procedures for individuals or groups to submit complaints to the

Committee on the Rights of the Child regarding violations of the rights covered by the protocol.

These optional protocols provide an additional layer of protection for specific rights mentioned in the respective conventions. States that choose to ratify these optional protocols commit to accepting the additional obligations and procedures outlined in them.

It's important to note that the availability of optional protocols varies for different human rights treaties, and not all treaties have optional protocols. The adoption and ratification of these protocols depend on the specific needs and priorities of the international community in addressing emerging human rights challenges.

## **Role of United Nation Commissions**

The United Nations (UN) has various commissions and bodies that play crucial roles in addressing specific issues and promoting international cooperation in different areas. These commissions work within the framework of the UN system and contribute to the organization's overall goals. Here are some notable UN commissions and their roles:

### **1. United Nations Human Rights Council (UNHRC):**

- The UNHRC is a body within the UN system responsible for promoting and protecting human rights around the world. It reviews the human rights records of UN member states through the Universal Periodic Review (UPR) mechanism, addresses specific human rights situations through resolutions, and works on thematic issues. The UNHRC replaced the UN Commission on Human Rights in 2006.

### **2. United Nations Security Council (UNSC):**

- The UNSC is the principal body responsible for maintaining international peace and security. It has the authority to establish peacekeeping missions, impose sanctions, and authorize the use of force. The UNSC comprises 15 members, including five permanent members with veto

power (China, France, Russia, the United Kingdom, and the United States).

### **3. United Nations Educational, Scientific and Cultural Organization (UNESCO):**

- UNESCO promotes international collaboration in the fields of education, science, culture, and communication. It works to build a more just, inclusive, peaceful, and sustainable world through initiatives related to education, cultural heritage preservation, scientific cooperation, and media development.

### **4. United Nations Children's Fund (UNICEF):**

- UNICEF focuses on the well-being and rights of children worldwide. It provides humanitarian assistance, promotes education, advocates for child rights, and addresses issues such as child health, nutrition, and protection. UNICEF works to ensure that every child has a fair chance in life.

### **5. United Nations Development Programme (UNDP):**

- The UNDP works to eradicate poverty, promote sustainable development, and reduce inequality globally. It provides technical assistance, capacity-building support, and funds development projects in various areas, including governance, climate change, and gender equality.

### **6. United Nations Environment Programme (UNEP):**

- UNEP is the leading global environmental authority. It coordinates international efforts to address environmental issues, including climate change, biodiversity loss, pollution, and sustainable development. UNEP conducts research, facilitates cooperation among nations, and supports environmental conservation initiatives.

### **7. United Nations Commission on the Status of Women (CSW):**

- The CSW is dedicated to promoting gender equality and the empowerment of women. It plays a key role in monitoring the implementation of the Beijing Declaration and Platform for Action, addressing emerging issues related to women's rights, and providing a forum for governments and civil society to discuss progress and challenges.

### **8. United Nations Commission on International Trade Law (UNCITRAL):**

- UNCITRAL works on the harmonization and modernization of international trade law. It develops and promotes international conventions, model laws, and guidelines to facilitate international trade and investment.

These are just a few examples, and there are many other UN commissions, agencies, and bodies that address a wide range of global challenges. Each plays a specific role in advancing the goals and principles of the United Nations in its respective field of focus.

## Convention on the Elimination of All forms of Discrimination against women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is an international treaty adopted by the United Nations General Assembly in 1979. Often described as the international bill of rights for women, CEDAW is considered a landmark instrument in the promotion and protection of women's rights. It came into force on September 3, 1981.

Key features of CEDAW include:

### 1. **Comprehensive Approach:**

- CEDAW is a comprehensive international treaty that addresses various aspects of discrimination against women. It covers political, economic, social, cultural, civil, and reproductive rights.

### 2. **Definition of Discrimination Against Women:**

- The convention defines discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which 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."

### 3. **State Parties:**



- As of my knowledge cutoff in January 2022, CEDAW has been ratified by a large majority of UN member states. Countries that ratify CEDAW commit to taking steps to eliminate discrimination against women in their legal systems and to ensure substantive equality between men and women.

#### **4. Monitoring Mechanism:**

- The Convention establishes a monitoring mechanism through the Committee on the Elimination of Discrimination Against Women (CEDAW Committee). This committee is composed of experts in the field of women's rights, and it reviews periodic reports submitted by State Parties on their progress in implementing the convention.

#### **5. State Obligations:**

- State Parties are obligated to take a series of measures to eliminate discrimination against women. These include incorporating the principle of equality of men and women into their legal systems, repealing discriminatory laws, and taking affirmative action to address historical inequalities.

#### **6. Special Measures:**

- CEDAW recognizes the need for special measures aimed at accelerating de facto equality between men and women. These measures are temporary and aim to address existing disparities.

#### **7. Violence Against Women:**

- The convention addresses violence against women and calls on states to take measures to prevent, investigate, and punish acts of violence against women.

#### **8. Optional Protocol:**

- The Optional Protocol to CEDAW, adopted in 1999, allows individuals or groups to submit complaints to the CEDAW Committee after exhausting domestic remedies. It also enables the committee to conduct inquiries into grave or systematic violations of women's rights.

CEDAW has played a pivotal role in shaping international norms and standards on women's rights. While progress has been made, challenges persist, and CEDAW remains a crucial tool for advocating gender equality and combating discrimination against women on a global scale.

## United Nations Convention against Torture (UNCAT)

The United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (UNCAT) is an international treaty aimed at preventing and prohibiting torture and other forms of cruel, inhuman, or degrading treatment or punishment. Adopted by the United Nations General Assembly on December 10, 1984, UNCAT entered into force on June 26, 1987.

Key features of UNCAT include:

### 1. Definition of Torture:

- Article 1 of UNCAT defines torture as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for purposes such as obtaining information, punishing, or intimidating.

### 2. Absolute Prohibition:

- UNCAT establishes an absolute prohibition on torture and cruel, inhuman, or degrading treatment or punishment. No exceptional circumstances, including war or public emergency, can justify such acts.

### 3. State Obligations:

- State Parties to UNCAT are required to take effective legislative, administrative, judicial, and other measures to prevent and prohibit torture within their jurisdictions. This includes ensuring that acts of torture are criminal offenses and that those responsible are brought to justice.

### 4. Extradition and Refoulement:

- UNCAT prohibits the extradition of a person to another state where there are substantial grounds for believing that they would be in danger of being subjected to torture. Similarly, the convention prohibits the return (refoulement) of individuals to a country where they may face torture.

### 5. Monitoring Mechanism:

- UNCAT establishes the Committee against Torture, a body of independent experts, to monitor the implementation of the convention. State Parties are required to submit periodic reports to the committee detailing their efforts to prevent torture and ill-treatment.

#### **6. Optional Protocol:**

- The Optional Protocol to the Convention against Torture (OPCAT) was adopted in 2002. It establishes a system of regular visits by independent international and national bodies to places of detention to prevent torture and other cruel, inhuman, or degrading treatment. The Optional Protocol aims to strengthen the implementation of UNCAT by preventing torture from occurring in the first place.

#### **7. Definition of Cruel, Inhuman, or Degrading Treatment:**

- UNCAT, in addition to torture, prohibits cruel, inhuman, or degrading treatment or punishment. While the convention does not provide an explicit definition for these terms, the Committee against Torture and international jurisprudence have contributed to interpreting and clarifying these concepts.

#### **8. Individual Complaint Mechanism:**

- While UNCAT itself does not provide for an individual complaint mechanism, the Committee against Torture can consider complaints from individuals or groups against State Parties under the inquiry procedure, which is triggered in certain circumstances.

UNCAT reflects the international community's commitment to eradicating torture and inhuman treatment. It plays a crucial role in establishing global norms and standards to prevent and respond to such egregious human rights violations.

### **United Nations Convention on the Rights of the Child (CRC or UNCRC)**

The United Nations Convention on the Rights of the Child (CRC or UNCRC) is a landmark international treaty that sets out the civil, political, economic, social, and cultural rights of children. Adopted by the United Nations General

Assembly on November 20, 1989, the CRC came into force on September 2, 1990. It is the most widely ratified human rights treaty in the world.

Key features of the CRC include:

### 1. Holistic Approach:

- The CRC recognizes the rights of children in a comprehensive and integrated manner. It addresses civil and political rights, such as the right to life, identity, and freedom of expression, as well as economic, social, and cultural rights, such as the right to education, health, and an adequate standard of living.

### 2. Four General Principles:

- The CRC is guided by four general principles:
  - **Non-discrimination (Article 2):** Children have the right to be treated without discrimination based on race, color, sex, language, religion, disability, birth, or other status.
  - **Best interests of the child (Article 3):** The best interests of the child shall be a primary consideration in all actions and decisions affecting children.
  - **Right to life, survival, and development (Article 6):** Every child has the inherent right to life and to enjoy the highest attainable standard of health.
  - **Respect for the views of the child (Article 12):** Children have the right to express their views and have those views taken into account in matters affecting them.

### 3. State Obligations:

- States that ratify the CRC commit to taking legislative, administrative, and other measures to give effect to the rights recognized in the convention. They are required to submit periodic reports on their progress to the Committee on the Rights of the Child.

### 4. Right to Participation:

- The CRC emphasizes the right of children to participate in decisions that affect them. Article 12 underscores the importance of respecting the views of the child and providing them with opportunities to express themselves.

### 5. Protection from Exploitation:

- The CRC addresses issues of child exploitation, including child labor, child trafficking, and child abuse. It calls for measures to protect children from economic exploitation and harmful practices.

#### 6. **Education (Article 28 and 29):**

- The CRC recognizes the right of the child to education and emphasizes the importance of education in promoting the development of the child's personality, talents, and mental and physical abilities.

#### 7. **Optional Protocols:**

- The CRC has three optional protocols:
  - **Optional Protocol on the involvement of children in armed conflict (OPAC):** Establishes measures to protect children from recruitment and use in armed conflicts.
  - **Optional Protocol on the sale of children, child prostitution, and child pornography (OPSC):** Addresses issues related to the sale of children, child prostitution, and child pornography.
  - **Optional Protocol allowing individual communications (OPIC):** Allows children or their representatives to submit complaints to the Committee on the Rights of the Child.

The CRC has played a fundamental role in shaping international standards for the protection and well-being of children. It has contributed to increased awareness of children's rights and has influenced laws, policies, and practices globally to ensure the fulfillment of these rights.

### **Conventions on the Protection of the Rights of Migrant Workers and Disabled.**

#### 1. **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW):**

- Adopted by the United Nations General Assembly on December 18, 1990, and entered into force on July 1, 2003, the ICRMW is a comprehensive international treaty addressing the rights and protection of migrant workers and their families. Key provisions include:
  - Equality of treatment with nationals in terms of working conditions, social security, and access to public services.

- Protection against inhuman or degrading treatment and exploitation.
- The right to transfer earnings and savings to their home country.
- The right to be informed of their rights and duties in a language they understand.

## 2. **Convention on the Rights of Persons with Disabilities (CRPD):**

- Adopted by the United Nations General Assembly on December 13, 2006, and entered into force on May 3, 2008, the CRPD focuses on the rights of persons with disabilities. It recognizes that persons with disabilities should enjoy all human rights and fundamental freedoms without discrimination. Key provisions include:
  - Equality and non-discrimination, including the right to equal recognition before the law.
  - Accessibility to the physical environment, transportation, information, and communication.
  - Full and effective participation in political, public, cultural, and social life.
  - Protection against exploitation, violence, and abuse.
  - The right to an inclusive education and employment opportunities.
  - The right to health and rehabilitation services.

Both of these conventions reflect the international community's commitment to safeguarding the rights and dignity of vulnerable populations—migrant workers and persons with disabilities. They provide a framework for legal standards and guidelines to ensure the protection, inclusion, and equal opportunities for these individuals, promoting a more inclusive and equitable global society.

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**SUBJECT NAME** : **HUMAN RIGHTS**  
**SUBJECT CODE** : **23PHR20**  
**CLASS** : **I MBA (HRM)**

**SYLLABUS**

**Structure of Units:**

- Regional Human Rights
- European Human Rights System- African Human Rights System – International Human Rights –Enforceability before Domestic Courts.

## UNIT-III

### EUROPIAN HUMAN RIGHTS SYSTEM

The European Convention on Human Rights (ECHR) is an international treaty that aims to protect fundamental rights and freedoms in Europe. It was adopted by the Council of Europe in 1950 and came into force in 1953. The Convention establishes a framework for the protection of human rights, which member states are required to uphold.

Key features of the European Convention on Human Rights include:

1. **Rights and Freedoms:** The Convention guarantees a range of civil and political rights, including the right to life, freedom from torture and inhuman or degrading treatment, freedom of expression, freedom of assembly and association, and the right to a fair trial.
2. **European Court of Human Rights (ECtHR):** The Convention established the ECtHR, which is responsible for interpreting and enforcing the provisions of the Convention. Individuals can bring complaints of human rights violations against member states to the ECtHR after exhausting domestic remedies.
3. **Individual Complaints Procedure:** Under the Convention, individuals have the right to submit complaints to the ECtHR alleging violations of their rights by member states. The ECtHR has the authority to issue binding judgments requiring member states to remedy violations and provide compensation to victims.
4. **Positive Obligations:** The Convention imposes positive obligations on member states to take proactive measures to protect and promote human rights. This includes obligations to enact legislation, provide effective remedies for human rights violations, and take measures to prevent discrimination.
5. **Protocol System:** The Convention has been supplemented by a series of protocols that address specific human rights issues. For example, Protocol 1 protects the right to property, education, and free elections, while Protocol 6 abolishes the death penalty in peacetime.



6. **Enforcement Mechanisms:** The Committee of Ministers of the Council of Europe oversees the implementation of judgments of the ECtHR and monitors member states' compliance with their obligations under the Convention. Member states are expected to abide by the rulings of the ECtHR and take appropriate measures to implement its judgments.

Overall, the European Convention on Human Rights represents a cornerstone of human rights protection in Europe, providing a legal framework for safeguarding fundamental freedoms and holding member states accountable for violations.

## AFRICAN HUMAN RIGHTS SYSTEM

The African human rights system encompasses a set of regional and continental mechanisms designed to protect and promote human rights across the African continent. Key components of the African human rights system include:

1. **African Charter on Human and Peoples' Rights (ACHPR):** Adopted in 1981, the ACHPR is a regional human rights treaty that sets out the rights and freedoms to be enjoyed by individuals and peoples in Africa. It includes civil and political rights, as well as economic, social, and cultural rights. The ACHPR also establishes the African Commission on Human and Peoples' Rights.
2. **African Commission on Human and Peoples' Rights (ACHPR):** Established in 1987, the ACHPR is a quasi-judicial body tasked with promoting and protecting human rights in Africa. It monitors the implementation of the ACHPR by member states, conducts investigations into human rights violations, and issues recommendations and guidelines to member states.
3. **African Court on Human and Peoples' Rights:** The African Court, established by a protocol to the ACHPR, has jurisdiction to hear cases concerning human rights violations committed by member states and cases referred by the ACHPR. It provides individuals and non-governmental organizations with a forum to seek redress for human rights violations.
4. **African Charter on the Rights and Welfare of the Child:** Adopted in 1990, this treaty sets out the rights and protections afforded to children in Africa. It

complements the ACHPR by focusing specifically on the rights of children and includes provisions for their protection, welfare, and development.

5. **African Union (AU):** The AU is the continental organization responsible for promoting unity, peace, and development in Africa. It plays a key role in supporting the implementation of human rights norms and standards across the continent, including through its various organs and institutions.
6. **African Peer Review Mechanism (APRM):** The APRM is a voluntary mechanism through which AU member states assess one another's adherence to democratic governance, socio-economic development, and human rights. It aims to promote good governance and accountability among African countries.
7. **Domestic and Regional Courts:** In addition to the African Court on Human and Peoples' Rights, domestic courts and regional courts, such as the Economic Community of West African States (ECOWAS) Court of Justice and the East African Court of Justice, also play roles in adjudicating human rights cases within their respective jurisdictions.

Overall, the African human rights system provides a comprehensive framework for protecting and promoting human rights on the continent, with mechanisms for monitoring compliance, addressing violations, and seeking redress for victims.

## INTERNATIONAL HUMAN RIGHTS:

International human rights refer to a set of universal principles and standards that are recognized and protected by international law. These rights are inherent to all individuals, regardless of their nationality, ethnicity, religion, gender, or any other status. The foundation of international human rights law is built upon various treaties, declarations, and conventions, as well as customary international law. Key features of international human rights include:

1. **Universal Declaration of Human Rights (UDHR):** Adopted by the United Nations General Assembly in 1948, the UDHR is a foundational document that sets out a broad range of civil, political, economic, social, and cultural rights.

Although not legally binding, it has served as a source of inspiration for subsequent human rights instruments.

2. **International Bill of Human Rights:** This term refers collectively to the UDHR, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Together, these instruments constitute the core framework of international human rights law.
3. **Treaty-Based Human Rights Instruments:** In addition to the ICCPR and ICESCR, there are numerous other international treaties and conventions that focus on specific human rights issues, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).
4. **International Human Rights Monitoring Bodies:** Various international bodies, such as treaty bodies and special rapporteurs appointed by the United Nations, are tasked with monitoring the implementation of human rights treaties by member states. These bodies review state reports, conduct inquiries, issue recommendations, and raise awareness about human rights issues.
5. **International Criminal Justice Mechanisms:** International criminal tribunals, such as the International Criminal Court (ICC) and ad hoc tribunals like the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), prosecute individuals responsible for serious human rights violations, including genocide, war crimes, and crimes against humanity.
6. **Regional Human Rights Systems:** In addition to the global framework, various regional organizations have established human rights mechanisms to protect and promote rights within their respective regions. Examples include the European Convention on Human Rights (Council of Europe), the American Convention on Human Rights (Organization of American States), and the African Charter on Human and Peoples' Rights (African Union).

International human rights law provides a normative framework for the protection of fundamental freedoms and dignity, with mechanisms for

monitoring compliance, accountability, and redress for victims of human rights violations.

## ENFORCEABILITY BEFORE DOMESTIC COURTS

The enforceability of international human rights norms before domestic courts varies depending on several factors, including the legal system of the country, the incorporation of international law into domestic law, and the willingness of domestic courts to apply international human rights standards.

1. **Incorporation into Domestic Law:** In some countries, international human rights treaties and conventions are directly incorporated into domestic law. This means that they have the same legal status as domestic legislation and can be directly invoked before domestic courts. In such cases, individuals can rely on international human rights norms as enforceable rights in domestic legal proceedings.
2. **Dualist and Monist Legal Systems:** Countries may have either dualist or monist legal systems regarding the relationship between international law and domestic law. In dualist systems, international treaties are not automatically incorporated into domestic law and require specific enabling legislation for implementation. In monist systems, international law is automatically incorporated into domestic law upon ratification, without the need for additional legislation. In monist systems, international human rights treaties are typically directly applicable before domestic courts.
3. **Constitutional Incorporation:** Some countries incorporate international human rights norms into their constitutions, elevating them to the highest level of legal authority within the domestic legal system. In such cases, domestic courts are generally bound to enforce these rights and may strike down domestic laws or actions that violate constitutional or international human rights standards.
4. **Judicial Activism and Interpretation:** The willingness of domestic courts to apply international human rights standards can vary based on judicial activism and interpretation. Some courts may adopt a broad interpretation of domestic laws to align with international human rights norms, while others may be more reluctant to apply international law directly, particularly in the absence of clear domestic legislation or constitutional provisions.

5. **Case Law and Precedent:** Over time, domestic courts may develop case law and precedent that recognize and enforce international human rights norms. Judicial decisions that reference international treaties, conventions, or customary international law can contribute to the development of human rights jurisprudence within domestic legal systems.
6. **Judicial Independence and Political Factors:** The independence of the judiciary and political factors within a country can also influence the enforceability of international human rights norms before domestic courts. Judicial independence allows courts to adjudicate human rights cases impartially, without undue influence from political actors or government authorities.

In summary, the enforceability of international human rights norms before domestic courts depends on a combination of legal frameworks, judicial interpretation, constitutional provisions, and political dynamics within each country. While international human rights law provides a normative framework for protecting fundamental rights, its effectiveness in domestic contexts may vary.

**MARUDHAR KESARI JAIN COLLEGE FOR WOMEN, VANIYAMBADI**  
**PG AND RESEARCH DEPARTMENT OF BUSINESS ADMINISTRATION**

**SUBJECT NAME : HUMAN RIGHTS**

**SUBJECT CODE : 23PHR20**

**CLASS : I MBA (HRM)**

**SYLLABUS**

**Structure of Units:**

UNIT-4:

Human Rights in India

The Constitution of India – Fundamental Rights – Right to Life and Liberty – Directive Principles of State Policy – Fundamental Duties – Individual and Group Rights – Other facets of Human Rights – Measures for Protection of Human Rights in India.

## **UNIT IV**

### **THE CONSTITUTION OF INDIA**

The Constitution of India is the supreme law of the Republic of India. It was adopted by the Constituent Assembly of India on November 26, 1949, and came into effect on January 26, 1950, replacing the Government of India Act (1935) as the governing document of India. The Constitution lays down the framework that defines the political principles, establishes the structure, procedures, powers, and duties of government institutions, and sets out fundamental rights, directive principles, and the duties of citizens. It is one of the lengthiest written constitutions in the world, comprising 448 articles divided into 25 parts, 12 schedules, and 5 appendices, making up a total of 146,385 words.

The Constitution of India follows the federal system of government, with a clear demarcation of powers between the central government and the states. It also includes provisions for the fundamental rights of citizens, such as the right to equality, freedom of speech and expression, freedom of religion, and the right to constitutional remedies. Additionally, the Constitution outlines directive principles of state policy aimed at guiding the government in its policy-making to secure social and economic justice.

The Constitution has been amended several times since its adoption, reflecting the changing needs and aspirations of the Indian society. Amendments require a special majority of both houses of Parliament. The Constitution of India has provided stability and continuity to the Indian democracy and has served as a guiding document for the governance of the country for over seven decades.

### **FUNDAMENTAL RIGHTS**

The Fundamental Rights enshrined in the Constitution of India are a set of guaranteed rights that protect individual liberties and ensure social, economic,

and political justice. These rights are considered essential for the overall development and well-being of citizens. Part III (Articles 12 to 35) of the Constitution deals with Fundamental Rights. Here are the key Fundamental Rights recognized by the Indian Constitution:

1. **Right to Equality (Articles 14-18):** This includes equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, and equality of opportunity in matters of public employment.
2. **Right to Freedom (Articles 19-22):** This includes the right to freedom of speech and expression, the right to assemble peacefully and without arms, the right to form associations or unions, the right to move freely throughout the territory of India, and the right to reside and settle in any part of the country.
3. **Right against Exploitation (Articles 23-24):** This prohibits trafficking in human beings, forced labor, and employment of children in hazardous jobs.
4. **Right to Freedom of Religion (Articles 25-28):** This guarantees individuals the freedom of conscience and the right to profess, practice, and propagate religion. It also ensures freedom of religious institutions to manage their own affairs.
5. **Cultural and Educational Rights (Articles 29-30):** This protects the rights of minorities to conserve their language, script, or culture, and the right of minorities to establish and administer educational institutions of their choice.
6. **Right to Constitutional Remedies (Article 32):** This empowers individuals to move the Supreme Court to seek enforcement of Fundamental Rights through writs such as habeas corpus, mandamus, prohibition, certiorari, and quo warranto.

These Fundamental Rights are not absolute and are subject to reasonable restrictions imposed by the state in the interest of sovereignty and integrity of India, security of the state, friendly relations with foreign countries, public order, decency, morality, contempt of court, defamation, or incitement to an offense. However, any law that violates these rights can be challenged in the courts for its constitutionality.

## **RIGHT TO LIFE AND LIBERTY**



The Right to Life and Personal Liberty is one of the most fundamental and crucial rights guaranteed by the Constitution of India. It is enshrined under Article 21, which states: "No person shall be deprived of his life or personal liberty except according to procedure established by law."

This right encompasses various aspects of individual freedom and dignity, including:

1. **Right to Life:** The right to life extends beyond mere existence and includes the right to live with dignity. It encompasses the right to food, shelter, health, and a clean environment. The Supreme Court of India has interpreted the right to life expansively to include the right to livelihood, education, and even privacy.
2. **Right to Personal Liberty:** This right ensures that individuals have the freedom to move freely throughout the territory of India, subject only to reasonable restrictions imposed by law. It protects individuals from arbitrary arrest and detention, guaranteeing due process and procedural safeguards.

The Supreme Court of India has played a significant role in expanding and protecting the scope of the Right to Life and Personal Liberty. Through various judgments, it has held that this right is the heart of the Constitution and forms the basis of all other rights. The Court has also emphasized that the right is not confined to citizens but applies to all persons, including non-citizens and prisoners.

Furthermore, the Right to Life and Personal Liberty has been interpreted to include the right to privacy, the right to live with dignity, the right to refuse medical treatment, and the right to die with dignity (passive euthanasia). These interpretations have been made to ensure that individuals' autonomy and dignity are respected and protected by the state.

Overall, the Right to Life and Personal Liberty is foundational to the Indian constitutional framework and serves as a bulwark against arbitrary state action, ensuring that individuals' fundamental freedoms and dignity are safeguarded.

## DIRECTIVE PRINCIPLES OF STATE POLICY

**The** Directive Principles of State Policy (DPSP) are a set of guidelines or principles laid down in Part IV (Articles 36-51) of the Constitution of India. Unlike Fundamental Rights (which are justiciable), Directive Principles are non-justiciable in nature, meaning they are not enforceable by courts but are fundamental in the governance of the country. These principles direct the state in making laws and policies to establish a just and equitable society.

The DPSP aims to achieve social and economic democracy by providing directions to the state in matters such as:

1. **Social Justice:** The state is directed to promote the welfare of the people by securing and protecting, among other things, adequate means of livelihood for all citizens, equitable distribution of material resources, and prevention of concentration of wealth and means of production.
2. **Economic Justice:** The DPSP emphasizes economic equality and the elimination of inequalities in income, status, and opportunities. It calls for the operation of the economic system to ensure the equitable distribution of wealth and resources.
3. **Political Justice:** It envisages political equality by providing equal opportunities for all citizens to participate in the political process, ensuring free and fair elections, and ensuring the representation of marginalized sections of society.
4. **Gandhian Principles:** The DPSP includes principles derived from the teachings of Mahatma Gandhi, such as promoting cottage industries, decentralization of power, and rural development.
5. **International Relations:** It directs the state to promote international peace and security, maintain just and honorable relations between nations, foster respect for international law and treaty obligations, and encourage settlement of international disputes by arbitration.

While the Directive Principles are not legally enforceable, they serve as a guide for the government while formulating policies and laws. The courts cannot enforce these principles directly, but they can consider them while interpreting laws or adjudicating cases related to Fundamental Rights. Over time, many

DPSP have influenced legislative and policy decisions in India, contributing to the country's social, economic, and political development.

## **FUNDAMENTAL DUTIES**

The Fundamental Duties are a set of moral obligations and civic responsibilities that are incorporated into the Constitution of India. They were added by the 42nd Amendment Act in 1976, based on the recommendations of the Swaran Singh Committee. Part IV-A (Article 51A) of the Indian Constitution deals with Fundamental Duties.

The Fundamental Duties aim to promote a sense of discipline, integrity, and commitment to the nation among citizens. They are essential for the harmonious functioning of society and the preservation of democratic values. Unlike Fundamental Rights, which are enforceable by courts, Fundamental Duties are non-justiciable, meaning citizens cannot be punished for failing to fulfill them.

The Fundamental Duties laid down in Article 51A are as follows:

1. To abide by the Constitution and respect its ideals and institutions, the National Flag, and the National Anthem.
2. To cherish and follow the noble ideals that inspired the national struggle for freedom.
3. To uphold and protect the sovereignty, unity, and integrity of India.
4. To defend the country and render national service when called upon to do so.
5. To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, and regional or sectional diversities.
6. To value and preserve the rich heritage of the country's composite culture.
7. To protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures.
8. To develop the scientific temper, humanism, and the spirit of inquiry and reform.

9. To safeguard public property and to abjure violence.
10. To strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.

While the Fundamental Duties are not legally enforceable, they serve as a reminder to citizens about their responsibilities towards the nation and society. It is expected that individuals, while exercising their rights, also fulfill their duties to contribute to the overall welfare and progress of the country.

## INDIVIDUAL AND GROUP RIGHTS

**Individual rights and group rights** are two distinct concepts within the realm of human rights and civil liberties, each focusing on different aspects of rights protection.

**Individual Rights:** Individual rights pertain to the liberties and freedoms that are inherent to individual persons. These rights are possessed by individuals by virtue of their humanity, regardless of their membership in any particular group or community. Individual rights often include fundamental freedoms such as freedom of speech, freedom of religion, freedom of assembly, and the right to due process and equal protection under the law. These rights are typically enshrined in legal documents such as constitutions, bills of rights, and international human rights treaties. The protection of individual rights is crucial for safeguarding personal autonomy, dignity, and equality before the law.

**Group Rights:** Group rights, on the other hand, refer to rights that are attributed to specific groups of individuals based on shared characteristics such as ethnicity, religion, language, or cultural heritage. Group rights recognize that certain communities or collectives may face unique forms of discrimination, marginalization, or oppression and therefore require specific protections to ensure their survival, identity, and well-being. Examples of group rights include minority rights, indigenous rights, linguistic rights, and religious rights. These rights often aim to protect the cultural, linguistic, and

religious practices of minority groups, ensure their participation in decision-making processes, and address historical injustices or inequalities.

While individual rights and group rights are complementary in many respects, they can sometimes come into tension or conflict, particularly in situations where the exercise of individual freedoms may infringe upon the collective rights of certain groups, or where the protection of group rights may limit the autonomy or freedoms of individual members. Balancing these rights requires careful consideration of the broader social context, cultural diversity, and the principles of equality and non-discrimination.

In democratic societies, the protection of both individual and group rights is essential for fostering a just and inclusive society where all individuals and communities can fully participate, express themselves, and flourish.

## OTHER FACETS OF HUMAN RIGHTS

Human rights encompass a broad spectrum of rights and principles aimed at protecting the inherent dignity and worth of every individual. In addition to individual and group rights, there are several other facets of human rights that address different dimensions of human existence and well-being. Some of these facets include:

1. **Civil and Political Rights:** These rights focus on ensuring individuals' freedom from arbitrary interference or oppression by the state and protecting their ability to participate fully in the political process. Examples include the right to freedom of expression, freedom of association, the right to a fair trial, and the right to vote and participate in government.
2. **Social and Economic Rights:** These rights emphasize the importance of economic and social well-being and aim to ensure that all individuals have access to basic necessities such as food, shelter, healthcare, education, and employment. Examples include the right to work, the right to education, the right to healthcare, and the right to an adequate standard of living.
3. **Cultural Rights:** Cultural rights recognize the importance of preserving and promoting cultural diversity, heritage, and identity. These rights protect individuals' rights to participate in cultural life, practice and preserve their

cultural traditions, and access cultural resources. Examples include the right to participate in cultural activities, the right to use and develop one's own language, and the right to access cultural heritage.

4. **Environmental Rights:** Environmental rights focus on ensuring a healthy and sustainable environment for present and future generations. These rights recognize the interconnectedness between human well-being and environmental protection and aim to protect individuals' rights to clean air, water, and land, as well as the right to live in a safe and healthy environment.
5. **Gender Rights:** Gender rights address issues of equality, non-discrimination, and empowerment based on gender identity and expression. These rights aim to eliminate gender-based discrimination and violence, promote gender equality in all spheres of life, and ensure the full realization of the rights and freedoms of all genders.
6. **Children's Rights:** Children's rights focus on protecting the rights and well-being of children, including their right to survival, development, protection from harm and exploitation, and participation in decisions that affect them. These rights aim to ensure that children are treated with dignity and respect and have access to education, healthcare, and other essential services.
7. **Rights of Persons with Disabilities:** These rights focus on promoting the full and equal participation of persons with disabilities in society and ensuring their access to education, employment, healthcare, and other services. These rights aim to eliminate discrimination and barriers to inclusion and empower persons with disabilities to live independently and participate fully in all aspects of life.
8. **Labor Rights:** Labor rights focus on protecting the rights of workers, including the right to fair wages, safe working conditions, freedom of association, and collective bargaining. These rights aim to ensure that workers are treated with dignity and respect and have the opportunity to organize and advocate for their interests.

These are just a few examples of the diverse facets of human rights that address different aspects of human dignity, equality, and well-being. Human rights are interconnected and interdependent, and their realization requires collective efforts from governments, civil society, and individuals to create a more just, inclusive, and equitable world.

## MEASURES FOR PROTECTION OF HUMAN RIGHTS IN INDIA

India has established various measures and institutions to protect and promote human rights within its jurisdiction. These measures include legal frameworks, governmental institutions, independent bodies, and civil society initiatives. Some key measures for the protection of human rights in India are:

1. **Constitutional Safeguards:** The Indian Constitution contains a comprehensive framework of fundamental rights (Part III) and directive principles of state policy (Part IV) that provide a foundation for human rights protection. These rights cover civil, political, social, economic, and cultural dimensions, ensuring a broad spectrum of rights protection.
2. **National Human Rights Commission (NHRC):** Established under the Protection of Human Rights Act, 1993, the NHRC is an independent statutory body responsible for the protection and promotion of human rights in India. It investigates complaints of human rights violations, conducts inquiries, promotes human rights literacy, and recommends remedial actions to the government.
3. **State Human Rights Commissions (SHRCs):** Several Indian states have established their own SHRCs to address human rights violations at the state level. These commissions function similarly to the NHRC but focus on issues specific to their respective states.
4. **Judicial Review:** The Indian judiciary plays a vital role in safeguarding human rights through its power of judicial review. The Supreme Court and High Courts have the authority to interpret constitutional provisions and ensure the enforcement of fundamental rights. Landmark judgments by the courts have expanded the scope of human rights protection in India.
5. **Legislation:** India has enacted various laws to protect specific human rights and address particular issues. For example, the Protection of Women from Domestic Violence Act, 2005, aims to prevent and address domestic violence against women, while the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, seeks to prevent atrocities against marginalized communities.
6. **Public Interest Litigation (PIL):** Public interest litigation allows individuals and organizations to file cases in courts on behalf of the public interest or to

seek judicial intervention in matters concerning human rights violations, environmental protection, and social justice. PIL has been instrumental in bringing attention to human rights issues and securing remedies for victims.

7. **Civil Society Organizations (CSOs):** Non-governmental organizations (NGOs), human rights groups, and advocacy organizations play a significant role in monitoring human rights violations, raising awareness, providing legal assistance to victims, and advocating for policy reforms. CSOs often collaborate with government agencies and international bodies to promote human rights in India.
8. **International Obligations:** As a signatory to various international human rights treaties and conventions, India is obligated to uphold and protect human rights standards. These treaties provide a framework for cooperation, monitoring, and accountability in the field of human rights.

These measures collectively contribute to the protection and promotion of human rights in India, although challenges persist, including issues related to enforcement, accountability, discrimination, and access to justice. Efforts to strengthen institutions, enhance legal frameworks, and raise awareness about human rights are ongoing to address these challenges and ensure the full realization of human rights for all individuals in India.



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**SUBJECT NAME : HUMAN RIGHTS**

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**CLASS : I MBA (HRM)**

**SYLLABUS**

**Structure of Units:**

**UNIT-5:**

Human Right Violations and Redressal Mechanism

Human Rights – Infringement of Human Right by State Machinery and by Individual – Remedies for State action and inaction – Constitutional remedies – Public Interest Litigation (PIL) - Protection of Human Rights Act, 1993 – National Human Rights Commission – State Human Rights Commissions – Constitution of Human Right Courts

## UNIT-V

### HUMAN RIGHTS- INFRINGEMENT OF HUMAN RIGHT BY STATE MACHINERY AND BY INDIVIDUAL

Human rights are fundamental rights inherent to all human beings, regardless of nationality, ethnicity, religion, or any other status. These rights are protected by international law, including the Universal Declaration of Human Rights and various human rights treaties. However, despite these protections, human rights violations can occur both by state machinery and by individuals. Here are some examples of each:

#### 1. **State Machinery Infringement of Human Rights:**

- a. **Arbitrary Arrest and Detention:** Governments may abuse their power by arbitrarily arresting and detaining individuals without due process or legal justification.
- b. **Torture and Cruel, Inhuman, or Degrading Treatment:** State agents, such as law enforcement or military personnel, may engage in torture or other forms of cruel treatment against individuals, violating their right to be free from such abuse.
- c. **Censorship and Freedom of Expression:** States may impose censorship on media outlets or suppress freedom of expression by restricting dissenting voices, thus infringing upon individuals' rights to express their opinions and access information freely.
- d. **Discrimination and Marginalization:** State policies or practices may discriminate against certain groups based on characteristics such as race, ethnicity, religion, gender, or sexual orientation, denying them equal rights and opportunities.
- e. **Forced Displacement and Land Grabbing:** Governments may forcibly evict communities from their land for development projects without proper compensation or consultation, violating their right to housing and property.

## 2. **Infringement of Human Rights by Individuals:**

- a. **Violence and Abuse:** Individuals, whether acting alone or as part of a group, may commit acts of violence or abuse against others, infringing upon their right to life, liberty, and security of person.
- b. **Hate Crimes:** Individuals may perpetrate hate crimes against others based on their race, religion, ethnicity, sexual orientation, or other protected characteristics, violating their right to be free from discrimination and persecution.
- c. **Child Labor and Exploitation:** Individuals may exploit children for labor or engage in child trafficking, depriving them of their right to education, health, and a safe environment.
- d. **Domestic Violence:** Within the confines of the home, individuals may perpetrate domestic violence, including physical, sexual, or psychological abuse, violating the rights of family members to live free from violence and coercion.
- e. **Cyberbullying and Online Harassment:** With the rise of digital communication, individuals may engage in cyberbullying or online harassment, infringing upon others' rights to privacy, dignity, and psychological well-being.

In both cases, whether perpetrated by state machinery or by individuals, human rights infringements undermine the principles of equality, dignity, and justice that form the cornerstone of human rights protections worldwide. Efforts to address and prevent these violations require a commitment to upholding human rights standards, holding perpetrators accountable, and promoting awareness and education about human rights principles.

## REMEDIES FOR STATE ACTION AND INACTION

When addressing human rights violations perpetrated by state action or inaction, it's crucial to implement remedies that hold the state accountable, promote transparency and accountability, and ensure the protection and fulfillment of human rights. Here are some specific remedies tailored to address both state action and inaction:

### 1. Legal Remedies:

- **Judicial Review:** Empower independent judiciary bodies to review and invalidate laws, policies, or actions that violate human rights guarantees enshrined in national constitutions or international treaties.
- **Individual Complaint Mechanisms:** Establish mechanisms for individuals to file complaints against state actors directly or through legal representatives, leading to investigations and legal proceedings.
- **Class Action Lawsuits:** Allow for class action lawsuits to be brought against the state for systemic human rights violations affecting multiple individuals or communities.

## 2. Institutional Remedies:

- **Oversight Bodies:** Create independent oversight bodies, such as human rights commissions or ombudsman offices, with the authority to investigate allegations of human rights violations by state actors and make recommendations for corrective action.
- **Police and Military Reform:** Implement reforms within law enforcement and military institutions to promote accountability, respect for human rights, and adherence to international standards in their operations and conduct.
- **Whistleblower Protection:** Enact laws and policies to protect whistleblowers within state institutions who expose human rights abuses or corruption.

## 3. Political Remedies:

- **Electoral Accountability:** Hold government officials accountable for human rights violations through regular free and fair elections, where voters can express their dissatisfaction with incumbent leaders or parties.
- **Public Inquiries:** Conduct public inquiries or truth commissions to investigate past human rights abuses committed by state actors, provide a platform for victims' voices to be heard, and promote reconciliation and accountability.

## 4. International Mechanisms:

- **United Nations Oversight:** Engage with United Nations human rights mechanisms, such as special rapporteurs, treaty bodies, and the Human Rights Council, to monitor and report on human rights situations, apply

diplomatic pressure, and provide technical assistance to improve state compliance with international human rights standards.

- **Regional Human Rights Bodies:** Utilize regional human rights bodies, such as the European Court of Human Rights, Inter-American Commission on Human Rights, or African Commission on Human and Peoples' Rights, to seek redress for human rights violations and promote regional cooperation in upholding human rights.

#### 5. **Civil Society and Public Engagement:**

- **Civil Society Monitoring:** Support the role of civil society organizations in monitoring state actions, documenting human rights violations, and advocating for accountability and reform.
- **Public Awareness Campaigns:** Launch public awareness campaigns to educate citizens about their rights, raise awareness about ongoing human rights violations, and mobilize public pressure for change.

By employing these remedies, states can be held accountable for their actions or inactions, and efforts can be made to prevent future human rights violations, promote justice, and uphold the dignity and rights of all individuals.

## CONSTITUTIONAL REMEDIES

Constitutional remedies play a vital role in addressing human rights violations perpetrated by state actors or as a result of state inaction. These remedies are based on the principles outlined in a country's constitution and aim to ensure that the government operates within the bounds of constitutional law while upholding fundamental human rights. Here are some key constitutional remedies:

#### 1. **Judicial Review:**

- Constitutional courts or supreme courts have the authority to review the constitutionality of laws, policies, or actions taken by the government.
- Individuals or groups can file petitions or lawsuits challenging laws or actions that violate constitutional provisions protecting human rights.

- Courts can strike down unconstitutional laws or actions, issue injunctions to prevent their enforcement, or order remedies to redress violations.

## **2. Writs of Habeas Corpus, Mandamus, and Prohibition:**

- Writ of Habeas Corpus: Individuals detained or arrested unlawfully can petition the court for a writ of habeas corpus, requiring the government to justify the detention and secure the individual's release if it is found to be unlawful.
- Writ of Mandamus: Courts can issue writs of mandamus compelling government officials to perform their duties or refrain from acting unlawfully.
- Writ of Prohibition: Courts can issue writs of prohibition to prevent government officials from taking actions that exceed their legal authority or violate constitutional rights.

## **3. Declaration of Unconstitutionality:**

- Courts can declare laws, policies, or government actions unconstitutional if they violate fundamental rights protected by the constitution.
- Such declarations serve as a powerful remedy to nullify unconstitutional measures and prevent their future enforcement.

## **4. Compensation and Remedies:**

- Courts can order compensation or damages to victims of human rights violations caused by state actions or negligence.
- Remedies may include monetary compensation, restitution, rehabilitation, and measures to prevent recurrence of violations.

## **5. Injunctions and Orders:**

- Courts can issue injunctions or orders directing government authorities to cease actions that violate human rights or to take affirmative steps to remedy violations.
- Temporary restraining orders or interim injunctions may be granted to prevent irreparable harm while cases are pending.

## **6. Constitutional Amendments:**

- Constitutional amendments can be pursued to strengthen human rights protections, clarify ambiguous provisions, or eliminate constitutional barriers to effective remedies.

- Amendments may require popular approval through referendums or parliamentary processes.

## 7. **Public Interest Litigation:**

- Civil society organizations, advocacy groups, or individuals can initiate public interest litigation to challenge human rights violations and advocate for constitutional remedies.
- Public interest litigation can raise awareness, mobilize public support, and pressure the government to comply with constitutional obligations.

Constitutional remedies serve as essential safeguards to protect human rights and ensure accountability within the government. By upholding the principles of constitutionalism and the rule of law, these remedies contribute to the promotion of justice, democracy, and respect for fundamental rights and freedoms.

## **PUBLIC INTEREST LITIGATION(PIL)**

Public Interest Litigation (PIL) is a legal mechanism that allows individuals or groups to bring legal action before the courts on behalf of the public interest or to address issues affecting the public at large, particularly when there are violations of constitutional or legal rights. PIL serves as a tool for promoting social justice, accountability, and the rule of law by enabling access to justice for marginalized or vulnerable groups and addressing systemic injustices. Here are key features and aspects of Public Interest Litigation:

1. **Access to Justice:** PIL broadens access to justice by allowing individuals or organizations, including those without direct personal interest or standing, to bring cases to court on behalf of the public interest.
2. **Protecting Rights and Interests:** PIL can be used to protect a wide range of rights and interests, including civil liberties, environmental protection, consumer rights, gender equality, labor rights, minority rights, and access to healthcare and education.
3. **Constitutional and Legal Basis:** PIL is often grounded in constitutional provisions guaranteeing fundamental rights, such as the right to equality, freedom of speech and expression, right to life and personal liberty, and right



to a clean environment. It may also be supported by statutory provisions or international human rights treaties.

4. **Standing and Locus Standi:** In traditional legal proceedings, plaintiffs must have standing or locus standi, meaning they must demonstrate a direct personal interest or harm in the case. However, in PIL, standing requirements are often relaxed, allowing individuals, advocacy groups, NGOs, or even courts themselves to initiate litigation in the public interest.
5. **Court's Role:** Courts play a proactive role in PIL cases, often assuming an activist stance to address systemic injustices, enforce constitutional principles, and protect fundamental rights. Courts may issue directions, guidelines, or orders to government authorities to take corrective action or implement policies to address the issues raised in PIL petitions.
6. **Judicial Activism:** PIL has been associated with judicial activism, where courts actively intervene in matters of public interest to uphold constitutional values and promote social justice. This activism may involve interpreting the law expansively, filling gaps in legislation, and monitoring the implementation of court orders.
7. **Social Impact:** PIL cases have the potential for significant social impact, leading to policy reforms, legislative changes, and improvements in governance and public administration. PIL litigation can raise awareness, mobilize public support, and hold government authorities accountable for addressing societal concerns.
8. **Challenges and Criticisms:** Despite its many benefits, PIL also faces challenges and criticisms, including concerns about judicial overreach, forum shopping, delay in justice delivery, misuse by vested interests, and unequal access to legal resources.

Overall, Public Interest Litigation serves as a powerful mechanism for advancing social justice, promoting accountability, and protecting fundamental rights in democratic societies. It reinforces the principle that the law is a tool for the empowerment and protection of all members of society, especially those who are marginalized or disadvantaged.

## RODUCTION OF HUMAN RIGHTS ACT,1993

It appears there might be a slight confusion. There isn't a specific "Human Rights Act, 1993" that is universally recognized. However, different countries have enacted human rights legislation around that time or even earlier. Here are a couple of examples:

### 1. **United Kingdom: Human Rights Act 1998**

The Human Rights Act 1998 came into force in the United Kingdom in October 2000. It incorporates the rights and freedoms enshrined in the European Convention on Human Rights (ECHR) into domestic law. The Act allows individuals to bring claims in domestic courts based on violations of their rights under the ECHR.

### 2. **New Zealand: Human Rights Act 1993**

New Zealand's Human Rights Act 1993 is another example. It aims to promote and protect human rights in New Zealand and prohibits discrimination on various grounds including race, sex, marital status, religious belief, disability, and sexual orientation. The Act establishes the Human Rights Commission to monitor and enforce compliance with human rights standards.

These are just two examples, and many other countries have enacted similar legislation to protect and promote human rights within their jurisdictions. Such acts typically define fundamental rights, establish mechanisms for redress in case of violations, and create institutions responsible for overseeing human rights compliance.

## NATIONAL HUMAN RIGHTS COMMISSION

**The** National Human Rights Commission (NHRC) is a statutory body established by the government of many countries to protect and promote human rights. While the specifics may vary from country to country, here is a general overview of what the NHRC typically entails:

1. **Mandate and Purpose:** The NHRC is tasked with the responsibility of protecting and promoting human rights within the country. It works to ensure that human rights violations are investigated, remedied, and prevented.

Additionally, the NHRC may also have a mandate to raise awareness about human rights issues and advocate for policy changes to improve human rights protections.

2. **Independence and Autonomy:** The NHRC is usually established as an independent body to ensure its impartiality and autonomy. This independence is crucial for the effective functioning of the commission, as it allows it to carry out its mandate without undue influence from the government or other entities.
3. **Composition:** The NHRC is typically composed of members who are appointed based on their expertise and commitment to human rights. Members may include individuals from diverse backgrounds, such as law, academia, civil society, and human rights activism.
4. **Functions and Powers:** The NHRC is empowered to undertake various functions to fulfill its mandate, including:
  - Investigating complaints of human rights violations.
  - Conducting inquiries and fact-finding missions to address systemic human rights issues.
  - Monitoring the implementation of human rights laws and policies.
  - Advising the government on human rights-related matters.
  - Conducting research and raising awareness about human rights issues.
  - Making recommendations for legislative and policy reforms to improve human rights protections.
5. **Remedial Measures:** Upon investigating complaints of human rights violations, the NHRC may recommend remedial measures to provide justice to the victims and prevent future violations. These measures may include compensation for victims, disciplinary action against perpetrators, changes in policies or practices, and legislative reforms.
6. **Public Engagement:** The NHRC often engages with the public through various means, such as public hearings, awareness campaigns, and outreach programs. This engagement helps to raise awareness about human rights issues, empower individuals to assert their rights, and build trust between the commission and the public.
7. **International Cooperation:** In some cases, the NHRC may collaborate with international human rights bodies, organizations, and mechanisms to address cross-border human rights issues, share best practices, and strengthen human rights protections globally.

Overall, the National Human Rights Commission plays a crucial role in safeguarding human rights within a country, ensuring accountability for human rights violations, and promoting a culture of respect for human dignity and equality.

## STATE HUMAN RIGHTS COMMISSIONS

State Human Rights Commissions (SHRCs) are institutions established at the state level within a country to address human rights violations occurring within that specific state jurisdiction. Here's an overview of State Human Rights Commissions:

1. **Establishment and Legal Basis:** SHRCs are typically established through legislation enacted by the respective state governments. This legislation provides the legal framework for the establishment, composition, powers, and functions of the SHRC.
2. **Mandate and Purpose:** The primary purpose of SHRCs is to protect and promote human rights within their respective states. They are tasked with investigating complaints of human rights violations occurring within the state jurisdiction and taking appropriate action to address them. Additionally, SHRCs may also have a mandate to monitor the implementation of human rights laws and policies within the state.
3. **Composition:** SHRCs are typically composed of members appointed by the state government. The composition may include a chairperson and members with expertise in various fields such as law, human rights, social work, and administration.
4. **Functions and Powers:** SHRCs are empowered to undertake various functions to fulfill their mandate, including:
  - Receiving complaints of human rights violations and conducting inquiries or investigations into such complaints.
  - Conducting visits to prisons, detention centers, and other facilities to monitor the treatment of inmates and ensure compliance with human rights standards.
  - Advising the state government on human rights-related matters and making recommendations for policy reforms.

- Conducting awareness programs and disseminating information on human rights issues to the public.
- Initiating suo motu inquiries into incidents of human rights violations based on media reports or other sources.

5. **Remedial Measures:** Upon conducting inquiries into complaints of human rights violations, SHRCs may recommend remedial measures to provide justice to the victims and prevent future violations. These measures may include compensation for victims, disciplinary action against perpetrators, changes in policies or practices, and legislative reforms at the state level.
6. **Public Engagement:** SHRCs often engage with the public through various means, such as public hearings, awareness campaigns, and outreach programs. This engagement helps to raise awareness about human rights issues, empower individuals to assert their rights, and build trust between the commission and the public.
7. **Coordination with NHRC:** SHRCs may also collaborate with the National Human Rights Commission (NHRC) at the national level to address human rights issues that have broader implications or require coordination between state and national authorities.

Overall, State Human Rights Commissions play a crucial role in protecting and promoting human rights at the state level, ensuring accountability for human rights violations, and contributing to the overall promotion of a culture of respect for human dignity and equality within the state jurisdiction.

## CONSTITUTION OF HUMAN RIGHT COURTS

The establishment of human rights courts, often referred to as constitutional or specialized courts, varies from country to country based on their legal systems and constitutional frameworks. Here's an outline of how human rights courts may be constituted within a legal system:

1. **Constitutional Basis:** Human rights courts are typically established based on provisions within the country's constitution or through legislation specifically addressing the establishment of such courts. Constitutional provisions may affirm the right to access justice, provide for the establishment of specialized

courts, or grant jurisdiction to existing courts to adjudicate human rights cases.

2. **Specialized Courts vs. Regular Courts:** Human rights courts can take various forms, including specialized courts dedicated solely to hearing human rights cases or existing courts with jurisdiction over human rights issues alongside their other functions. Specialized courts may include constitutional courts, human rights tribunals, or other specialized judicial bodies.
3. **Composition:** The composition of human rights courts varies but often includes judges with expertise in human rights law or constitutional law. Members of these courts may be appointed based on their legal qualifications, experience, and commitment to upholding human rights principles. In some cases, these courts may include lay members or experts from relevant fields.
4. **Jurisdiction:** Human rights courts typically have jurisdiction to hear cases involving alleged violations of human rights enshrined in the constitution or international human rights treaties ratified by the country. This jurisdiction may encompass a wide range of issues, including civil liberties, political rights, social and economic rights, and protection against discrimination.
5. **Functions and Powers:** Human rights courts are empowered to adjudicate cases involving human rights violations, interpret constitutional provisions or human rights treaties, and ensure the enforcement of human rights standards within the legal system. They may issue judgments, orders, or remedies aimed at providing redress to victims of human rights violations and preventing future violations.
6. **Access to Justice:** Human rights courts play a crucial role in ensuring access to justice for individuals whose rights have been violated. They provide a forum for individuals, civil society organizations, and other stakeholders to seek legal remedies for human rights abuses and hold state authorities accountable for their actions.
7. **Independence and Impartiality:** Human rights courts are expected to operate independently and impartially, free from political interference or influence. Judicial independence is essential to ensure the integrity and credibility of human rights adjudication and to uphold the rule of law.
8. **Enforcement of Judgments:** Human rights courts may have mechanisms in place to ensure the enforcement of their judgments and orders. This may include collaboration with law enforcement agencies, government

departments, or other relevant authorities responsible for implementing court decisions.

Overall, the establishment of human rights courts reflects a commitment to upholding human rights principles within a country's legal system, ensuring accountability for human rights violations, and promoting the rule of law and the protection of fundamental rights and freedoms.