

The syllabus

Course I

Introduction to Human Rights and Duties

Credit: 1

- I) **Basic Concept**
 - a) Human Values- Dignity , Liberty, Equality , Justice, Unity in Diversity, Ethics and Morals
 - b) Meaning and significance of Human Rights Education

- II) **Perspectives of Rights and Duties**
 - a) Rights: Inherent-Inalienable-Universal- Individual and Groups
 - b) Nature and concept of Duties
 - c) Interrelationship of Rights and Duties

- III) **Introduction to Terminology of Various Legal Instruments**
 - a) Meaning of Legal Instrument- Binding Nature
 - b) Types of Instruments: Covenant-Charter-Declaration-Treaty-Convention-Protocol-Executive Orders and Statutes

- IV) **United Nations And Human Rights**
 - a) Brief History of Human Rights- International and National Perspectives
 - b) Provision of the charters of United Nations
 - c) Universal Declaration of Human Rights- Significance-Preamble
 - d) Civil and Political Rights-(Art. 1-21)
 - e) Economic, Social and Cultural Rights-(Art.22-28)
 - f) Duties and Limitations-(Art. 29)
 - g) Final Provision (Art. 30)

Course II

Human rights of vulnerable and disadvantaged groups

Credit: 1

I) General Introduction

- a) Meaning and Concept of Vulnerable and Disadvantaged
- b) Groups, Customary, Socio-Economic and Cultural Problems of
- c) Vulnerable and Disadvantaged Groups

II) Social status of women and children in International and national perspective

- a) Human Rights and Women's Rights –International and National Standards
- b) Human Rights of Children-International and National Standards

III) Status of Social and Economically Disadvantaged people

- a) Status of Indigenous People and the Role of the UN
- b) Status of SC/ST and Other Indigenous People in the Indian Scenario
- c) Human Rights of Aged and Disabled
- d) The Minorities and Human Rights

IV) Human rights of vulnerable groups

- a) Stateless Persons
- b) Sex Workers
- c) Migrant Workers
- d) HIV/AIDS Victims

Course III

Human Rights and Duties in India: Law, Policy, Society and Enforcement

Mechanism

Credit: 1

I. Human Rights in Indian Context

- a) Indian Bill of Rights And Sarvodaya
- b) Preamble- Fundamental Rights- Directive Principles-Fundamental Duties

II. Human Rights- Enforcement Mechanism

- a) Human Rights Act, 1993
- b) Judicial Organs- Supreme Court (Art 32) And High Courts(Art 226)
- c) Human Rights Commission- National and State of Maharashtra
- d) Commission of Women, children , Minority, SC/ST
- e) Survey of International Mechanism

III. Human Rights Violations and Indian Polity

- a) Inequalities in society-population-illiteracy-poverty-caste-inaccessibility of legal redress
- b) Abuse of Executive Power-Corruption-Nepotism and favoritism
- c) Human Rights and Good Governance
- d)

IV. Role of Advocacy Groups

- a) Professional Bodies: Press, Media, Role of Lawyers-Legal Aid
- b) Educational Institutions
- c) Role of Corporate Sector
- d) NGO's



UNIVERSITY OF PUNE

INTRODUCTION TO HUMAN RIGHTS AND DUTIES





विद्यापीठ गीत

ज्ञान बनो कर्मशील, कर्म ज्ञानवान

पुण्यमयी दे आम्हा अक्षर वरदान
ज्ञान बनो कर्मशील, कर्म ज्ञानवान

जातिभेद, धर्मभेद, वंशभेद दूर
लाख लाख केंद्रांनुनि हाथ एक सूर
करणेच्या चरणांची नत हो मिशान

मानुसकी धर्मचा अर्थ जाणतो
धर्मनिष्ठा हे पवित्र तीर्थ मानतो
हरगोनुनि समतेचा निश्चि अविमान

सेवेतच मुक्ती ही मंगल दीक्षा
ज्यामास्तव जायति ही सर्वपरीक्षा
हे विश्वनि पार अमुने मंत्र हा महात

संगेडा ५१३३००००





UNIVERSITY OF PUNE

**INTRODUCTION TO
HUMAN RIGHTS AND DUTIES**

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University of Pune

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Hon'ble Governor of Maharashtra

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August 2011.

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FOREWORD

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5 August 2011

FOREWORD

The revolution in the information technology has opened the flood gates in reducing the gap between the world communities. Recent advances in technology have had their impact in bridging the distance between the individuals across the world and increased the responsibility of nation-states to establish peace and security through strict adherence to the principles of international law and justice for the promotion and realization of human rights. This requires the individuals to become dharmic citizens to extend their contribution for the all round development of the nation.

In this backdrop, the commitment of the University of Pune to impart education relating to human rights to all of its students from Academic Year 2011-2012 is indeed a laudable step in motivating the future generations to rebuild India as a morally, ethically, legally, politically, economically, socially and culturally a sound nation in the galaxy of states. The present work "Introduction to Human Rights" being the first in the three volume series, aims to introduce the concepts of the Universal Declaration of Human Rights (UDHR) with a clear linkage to subtle concepts of moral, ethical values and the inter relationship between rights and duties. The lucid exposition of each article of UDHR is highly commendable.

I take this opportunity to congratulate Dr. R.K. Shevagaonkar, Vice Chancellor of the University of Pune for taking keen interest and lead in launching the programme to the entire student fraternity.

I also congratulate Dr.T.S.N.Sastry, Professor & Head, Department of Law, for his dedication in implementing the task with great enthusiasm and completing the book in a short span of time with clarity and presenting it in a simple manner.

I wish the programme a grand success. I also hope that the lead taken by the University of Pune will be emulated by other universities in the State as well in the country. Such a step will go a long way in spreading of Human Rights message amongst the youth,

(K.Sankaranarayanan)
Governor of Maharashtra

PREFACE



If faith in ourselves had been more extensively taught and practiced, I am sure a very large portion of the evils and miseries that we have would have vanished.

The above statement of Swami Vivekananda carries the message that one should always be truthful and benevolent to oneself, and to the community of humankind at all times with devotion to discharge his/her duties which alone will enable generating respect for humankind leading to a peaceful life. This is exactly what the nation-states proposed to achieve by adopting the Charter of the UN, and later by the Universal Declaration of Human Rights during the late forties. The adoption of these two major documents, supplemented by a number of other international instruments asserts restoration of the degraded system of values across the world.

In general, there has been ignorance about adhering to the compelling ethics of international law of human rights both by the nation-states and the humanity as a whole. The ignorance of promotion and practice of human rights have had its impact in widening the gap between the rich and the poor, both in the international and national spheres. The turn of events in the 70's and 80's have brought in horrendous events of hunger, mass movements, genocide, racism, torture, human trafficking, terrorism, infighting among individuals, corruption, discriminative practices on the grounds of sex, language, religion, race, abuse of rights of weaker sections et.al. In order to restore the confidence of people across various communities, and to reassure the concepts of life, liberty, equality, peace and security, the international community

in 1993 at the World Conference on Human Rights at Vienna laid emphasis on imparting the noble principles of human rights through education. Accordingly, in 1995, the General Assembly adopted a resolution, and declared the period 1995-2004 as the Decade of Human Rights Education followed by the present decade 2005-2014 as the Decade of Education for Sustainable Development. The efforts of the UN and the world community to restore peace and security, and to inculcate the normative values of life, liberty, dignity, equality, justice, moral and ethical principles would indeed bring in the desired results.

In tune with its commitment to promote values of peace and friendship, and to develop harmonious relations, the UN had adopted a number of legal instruments, highlighting the need to initiate action by nation-states at the international and national level. Education alone being the important potential weapon to eliminate all kinds of ignorance and to tap the inner knowledge inherited in humans, the UN and the States chose to impart the values of human rights through education for sustainable development of humanity. According to the guidelines and directions of the UN, the High Commissioner for Human Rights of the UN drew a number of plans to oversee that the Human Rights Education is imparted to all sections of the people through school, college and university education, and mass based programmes throughout the world are conducted with the aid and help of states and non-governmental organizations.

The Government of India drew up its National Policy on Education announced in 1968. The policy was revised under the leadership of the then Prime Minister Late Shri Rajiv Gandhi who drew up a plan of action to impart knowledge about the developments of scientific, technological, moral and ethical values through education to eliminate illiteracy and other maladies of the society. Around the same time, the UGC prepared a blue print for imparting Education on Human Rights and Duties at the Universities and Colleges with the following objectives: (a) to develop interaction between society and the educational institutions (b) to sensitize the citizens for the norms and values of human rights and duties (c) to encourage research activities related to human rights and (d) to encourage research studies concerning the relationship between human rights and duties and International Humanitarian law.

It has further emphasized that such promotion is necessary to generate awareness, conviction, and commitment to values for improving the quality of human life which will in turn encourage Universities and Colleges to take steps for dissemination of values and morals through Human Rights and Duties in different modes. With this aim, the UGC provided funding for establishing Human Rights and Duties Education centers in various Universities in the Country. However, due to lack of active patronization by the stake holders, reluctance of the people to take part in the activities of such centers, and lack of administrative and financial support by the Universities, many centers in the country could not achieve the targets and some of them even have been closed by the Universities.

In this background, the Government of India enacted the Human Rights Act in 1993 to develop respect for values of Human Rights and to Prevent the violations of the Human Rights. This Act provided provisions to establish Human Rights Commissions in every State. Apart from the protection mechanism, the Act has also empowered the Human Rights Commissions to initiate necessary steps for the propagation of Human Rights and Duties education through various means. In August 2010, the State Human Rights Commission of Maharashtra conducted a one day seminar on incorporation of human rights education on mass scale, to students of elementary to University level. The seminar was graced by the highest level of state dignitaries, His Excellency the Hon'ble Governor of Maharashtra, Shri. K. Sankaranarayanan, and the Chief Minister, Mr. Ashok Chavan, Deputy Chief Minister, Mr. Chhagan Bhujbal, Minister of Higher and Technical Education, Mr. Rajesh Tope, and other Ministers and Secretaries of the State of Maharashtra. In order to support the venture of the State Human Rights Commission, and to make the state of Maharashtra, the first state in India to take lead in offering Human Rights and Duties Education, University of Pune decided to introduce mandatory education in Human rights in all its programmes. On behalf of the University, myself being the academic head of the University in my capacity as the Vice Chancellor, along with Professor W.N. Gade, the Director of BCUD and Dr.T.S.N.Sastry, Head of Department of Law, prepared the Human Rights Education model and presented before the august gathering. The presentation received wide spread appreciation. University of Pune further made a firm commitment to promote Human Rights

Education by introducing a compulsory component on Human Rights and Duties for all the students of University of Pune from the academic year 2011.

To work out the curriculum details of the Human Rights Education at University of Pune, a Committee on Human Rights Education consisting of professors of various departments of the University was constituted. Considering expertise and experience in the fields of International Law and Human Rights, Dr.T.S.N.Sastry, Head of Department of Law has been appointed as the coordinator of the project. Also the Department of Law has been named as the coordinating centre of the project. Other members who made significant contribution to the project are, Dr. W.N. Gade, Dr. D.A. Patel, Dr. Manohar Jadhav, Dr. Sharmila Rege, Dr. A. N. Dalvi, Dr. (Captain) C.M. Chitale, Dr. S.D. Dhole, Dr. B.A. Chopade, Dr. Raja Dixit, Dr. Dilip Dhawale, Dr. N.R. Karmalkar, Dr. B.R. Shejwal, Dr. S. E. Bhelke, Dr. Y.M. Sumant, and Dr. Vilas Kharat. After prolonged deliberations of the committee on various issues, it has been unanimously accepted to offer three compulsory courses, one credit each at all levels in the University of Pune. The proposal has been approved by all the decision making bodies of the University and the implementation of the scheme will commence from the academic year 2011-12. The three courses which will be taken by all students of the university during their academic programme, are:

- 1) Introduction to Human Rights and Duties
- 2) Human Rights and Vulnerable Groups
- 3) Human Rights and Duties in India: Law, Policy, Society, and Enforcement Mechanism

The present book is the text for the first course, 'Introduction to Human Rights and Duties'.

The basic aim of the course is to introduce the students, the values and culture of human rights, and to make them aware the benefits we get out of it by strict adherence to tenets of them. The structure and presentation of the various concepts are made in a simple manner largely without going into the theoretical intricacies that they innate with them.

The material has been prepared and presented based on consultation of a number of books, research articles from reputed international law and Human Rights

journals & Judicial decisions and other allied subject journals, books published by the UNESCO, National Book Trust of India, web pages such as Wikipedia, Stanford University of Philosophy, etc. The photos presented in the book are mostly from the various web pages of the United Nations, Google that tied up with the UN for the Propagation of Human Rights Values, other regional organizations, and web pages of a number of NGOs who are actively engaged in propagation of the ideals of human rights.

The development of the course material is purely with an intention of inculcating practices of Human Rights amongst the youths of the university and the authors have no commercial motivation. A small amount of honorarium has been paid to each unit writer as a token of appreciation. Moreover, the University being the publisher (mostly in the e-format coupled with recorded lectures), the materials used, photos presented in the work are within the permissible limit of copy right law for dissemination with an acknowledgement. However, if any reference is missed out in the acknowledgement, it may be due to over sight and not with any intention. We express our gratitude and thanks to all whose work has been included in the course material for the propagation of the ideals of the UN.

The material is prepared with utmost care and precision. However, this being a maiden venture by a University for the first time in the country, any suggestion for the improvement of the material in future versions is welcome.

His Excellency, the Hon'ble Governor of Maharashtra, Shri K. Sankarnarayanan has been a constant source of inspiration in fulfillment of the commitment made by the University. I am indebted to His Excellency for entrusting this responsibility to University of Pune. I take this opportunity to thank all the authorities of the University for their Cooperation and timely approvals for the implementation of the programme. I also thank the Chairperson and Members of the Maharashtra State Human Rights Commission for driving the idea of making the State of Maharashtra, the first state in the country to fullfill the commitment made by the Union of India to the international community. My thanks are also due to all the Professors who participated in all the discussions and guided us to achieve the target.

Last but not the least, the entire book has been written by Dr.T.S.N.Sastry, Professor and Head of the Department of Law, University of Pune in a short span of time. I wish him all the success for the completion of the other two books and the audio visual course material on time.

As per the state requirement, the programme will be conducted in English and Marathi. The courses in English are generally meant for the Post Graduate Departments and Professional courses of the University. The course will be offered in Marathi for the Under Graduate programmes in the Colleges. The University also intends to present the materials in video lecture format. The lectures will be disseminated in the form of DVDs as well as through the Website of the University.

I hope the idea of propagation of human rights in university education will be appreciated and emulated by other Universities and Institutes in the state, and in the country.

I appeal to every student of the University as future torch bearers, to carry the mantle of propagation and practice of human rights on their shoulders to overcome the present day maladies of the country. This alone can establish the concept of social justice in its true perspective as architected by the Constitution of India by the legendary architect Bharat Ratna Dr. B.R. Ambedkar.


Dr. R.K. Shevgaonkar

Vice Chancellor, University of Pune

Date: 8.08.2011.

ACKNOWLEDGMENTS



This book has been written to meet the requirements of the Human Rights & Duties Education Programme of the University. A great task of this nature cannot be completed without the constant support of many people. I take this opportunity to thank all of them sincerely.

Let me express my deep sense of gratitude to His Excellency, the Governor of Maharashtra, and the Chancellor of the University, Shri K. Sankarnarayanan, for his all round encouragement and commitment for the promotion of human rights education. I express my sincere thanks for agreeing to write a forward.

I thank the Hon'ble Vice Chancellor Dr R.K. Shevgaonkar, who inspite of being a technocrat, shown keen interest in the dissemination of the ideals of human rights. The day he received the invitation from the State Human Rights Commission of Maharashtra inviting educational institutions to involve in the propagation of Human Rights in the State of Maharashtra, he decided to launch the programme of Human Rights education as part of the University curricula to all its students. From July 2010, immediately after few months of his joining in the University, the amount of time and interest he has evinced in the implementation of the project is praise worthy. I sincerely thank from the bottom of my heart for the trust, and providing the opportunity for me to work as the coordinator of the project.

I extend my thanks to the Director of Board of College and University development, Prof (Dr) W.N. Gade for his constant support all through, and his valuable contribution at various stages in preparing the course and in its implementation.

I also thank all the respective bodies of the University for extending their support for the approval of the programme.

All the Professors of the Human Rights Education Committee of the University and other members who extended their constant support through discussions and suggestions in making the project a reality are appreciable. My sincere gratitude is extended to one and all.

I thank the Chairman, Board of Studies, Faculty of Law, University of Pune, Dr. S.R Bhosale, for all the encouragement and support.

I express thanks to Dr. D.A. Patel, Associate Professor, Department of Law for spending long hours in the preparation of the syllabi, the book, and extending all the material and moral support. I furthermore express my thanks to Dr. S.E, Bhelke, Head, Department of Philosophy, University of Pune for all the support and going through the script in the crystallization of philosophical concepts. I express my thanks to Ms. Sonia Nagarale, Assistant Professor, Department of Law for her constant support and help in all through. I thank Mr. Y.S.R. Murty, the Director of the Centre for Human Rights, Jindal Global University, New Delhi, and the former Director of Research NHRC for his efforts in going through the script and the suggestions rendered.

I extend my gratitude to Mr. Sadiq, A. J. Syed, acting Country Director, UN Women, Afghanistan, who took pains in delivering the lecture on the efforts of the UN and India in the implementation of the Human Rights Education to the members of the Human Rights Committee of the University and offering his valuable suggestions. I also take this opportunity to thank my other colleagues and the non-teaching staff members of the Department of Law for their cooperation. I also thank my wife Smt. G.B.V. Anuradha and my two young daughters Anoosha and Medha for being a moral support in completing the task as their cooperation without minding me burning the midnight lamps for several weeks and not paying serious attention to my domestic commitments.

I also thank my Ph.D. Scholar Fr. Peter Ladis F, Chanakya National Law University, Patna for rendering the possible assistance whatever that was sought by me in compiling this handbook.

I express my sincere thanks to European Commission, Dr. Sidsel Hansson Project Director of Erasmus Mundus Exteranal Window Lot 13 India & Dr. Roger Greatrex, Director Centre for East & South East Asian Studies, University of Lund for all their assistance during my stay in Lund University, Sweden during July 2010 which helped me to equipe myself in presenting research perspectives in human rights as a part of my research trip.

I thank all the authors of the books, journals, articles and materials of various organisations consulted and the web pages I browsed for the inspiration, in authoring the materials in a lay man's perspective. Since the object of the book is to prepare the text in a common man's perspective, the ideas and expressions of all the materials consulted are presented here only for propagation and educational purposes. I thank all other authorities and officers of the University and Mr. Dattatraya Kute, Manager, and staff of the University Press in bringing out the book with due care and in record time.

Last but not the least, this being the first time, the consulted material is used carefully to crystallize into a book form and this book has been drafted with great care and concern to make it easily understandable to everyone. However, if any unintended errors have crept in, I express my due apologies and invite the comments and suggestions for improvement in future.



Dr. T. S. N. Sastry

Professor & Head,

Department of Law and Coordinator of the
Human Rights Education Programme,
University of Pune

Date 09.08.2011

INTRODUCTION

This work is a culmination of the idea of propagation about the objectives of Human Rights through education by the UN, Government of India and the State of Maharashtra. According to the Vienna Declaration and Programme of Action of the World Conference on Human Rights, 1993, the objectives of Human Rights could be achieved mainly through Human Rights Education. These objectives are promotion of stable and harmonious friendly relations among communities of the world for fostering mutual understanding, tolerance and to establish peace. In order to achieve this commitment, the UN declared the Decade 1995-2004, as the decade of Human Rights Education which is followed by the present decade 2005-2014. Finally in November 2012, the General assembly declared that human rights education is a life long process to be imparted at every level of education across the world. Accordingly, it chalked out an Action Plan for its implementation by the states at the national level. The Government of India declared the same objective in its first education policy in 1968 itself. The State of Maharashtra is probably the first in the country, to launch human rights teaching in a small way in the school curriculum. As these efforts have not fully yielded the desired results, the University of Pune has taken the mantle on its shoulders to render its share of service for the state and the nation as well. The present work in your hands is part one of the series of the book under the project of Human Rights Education for all the students of the University of Pune.

BASIC CONCEPTS

This Unit will briefly introduce the basic concepts of values and the linkage that they have with human rights. These conceptual perspectives play a significant role for the promotion and realization of human rights in any society. Values help to crystallize any legal action, and play a very important role in the development of a society. The strict adherence of each of these values not only helps in the realization of human rights but to establish the concept of one world as envisaged by international law. This unit focuses in without much debate and discussion on the theoretical perspective, the meaning of each one of the value. It briefly, highlights the significance of human rights education. However, some of the concepts are dealt in detail in Unit II, while explaining the origin and concept of right to the extent necessary.

Significance of Value

Value in general is a part of philosophy. Philosophy is one of the basic subjects which deals with the basic problems of mankind. In its discourse, it deals with issues such as existence, knowledge, values, reasons, mind, and language. It's theoretical perspective developed by various theoreticians mainly based on a rational approach with critical outlook. Basing on the parameters of value, a number of other aspects developed to regulate the behavioral patterns of man. These values such as dignity, liberty, equality justice, ethics, and morals et.al., have had their significant impact to shape the human relations in a society. These philosophical concepts have a profound impact on law.

The main aim and function of Law in any society is to regulate the relations between men and to alleviate the intensity of conflicts to promote peace, security, good and orderly behaviour of mankind to establish a conflict free society. This being the main function of law, it absorbs all the essential tools from every field of study with a critical outlook. This in turn will help to analyse each issue and lay norms to develop a rational human mind to achieve maximum results in their inter-relationships with each other. Since the concept of right and its exercise and regulation centered round basing on a number of values developed from ancient to modern times, they have had a great impact in the realization, promotion, and protection of human rights. In view of the linkage and importance that values play a significant role in the promotion and realization of human rights; the different concepts of values are examined in brief.

Human Values

"The value concept... [is] able to unify the apparently diverse interests of all the sciences concerned with human behavior."Rokeach.

The above view of the psychologist makes it clear, the concept of value and its relationship with the behavioural pattern of individuals in a society. In general, we think of values that are commonly followed by us in day to day life. These values vary from person to person, depending on their experiences and circumstances in which they grow. However, there are certain basic values which are common to all. They are life, liberty, security, freedom, and success, security to life, kindness, pain and pleasure. Depending on the circumstances, which each person grows up considers which value is important to him. But adhering to values which are common to all, in the longer run develop a society to establish peace for the progressive all round development of all the sections of a society. This will help to learn to live with unity in diversity.

According to a number of scholars, conceptually values are beliefs which are subjective in their exercise by each individual. Values motivate people to achieve their goals. Values transcend time and territory and develop relationships and regulate the behavioral patterns of individuals.

These being the central aspects of values, a number of scholars identified ten basic values, which motivate and regulate the behavior of human beings in achieving their goals. They are :

- Self-destruction, which promotes an independent thought which results in a judicious decision making process in creating or exploring the goal.
- Stimulation creates excitement, novelty and challenges in life.
- Hedonism (Self Satisfaction) brings in pleasure and sensuous gratification for oneself.
- Achievement demonstrates, the competence of individuals according to the standards of society.
- Power brings in social status and prestige, control over people, and resources.
- Security brings in harmonious relationship between individuals, to guide the society to establish a compatible environment for people to lead a life with pleasure and groom their freedoms.
- Conformity to social standards mainly regulates the behaviour of individuals,

and prevent the wrong doing activities by individuals to themselves, and towards one another in the society.

- Tradition promotes the qualities of respect to the practices that are inherent in society.
- Religion promotes the innovation of knowledge and furtherance of values to the achievement of peace and security. It teaches a happy sharing of the benefits that are derived through the promotion of knowledge.
- Benevolence establishes the belief, and enhances the qualities of welfare to promote the interests of the individuals with whom each one interacts in their day to day activities.
- Lastly, universalism promotes the qualities of understanding, appreciation, tolerance, and protection for the welfare of people. It takes care of developing harmonious living, and to work for the benefit of advancement of scientific knowledge, and to share the resources equally.

The philosophy of human rights is similar with that of the above values. Therefore, values are one of the basic aspects of human rights. The strict adherence of human rights restores not only to values, but also in turn able to achieve peace, security and harmonious living community without any kind of discrimination that exist between individuals and nation-states.

Dignity

Dignity is another value that regulates the behaviour of individuals. Dignity is a relative term with regulatory nature. It prescribes the norms and ethical standards needs to be followed and adopted.

In the day to day inter-relationships, individuals are expected to behave with one another in a dignified and honest manner. This concept dictates that every one of us has to exercise due caution and care in our relations without undermining the capacities of other persons. Further, it teaches us not to create a situation wherein others are made to undergo either emotional, psychological, physical, tense situations, or to harm their personality.

Since dignity plays a vital role, in regulating the human relations and for the furtherance of human rights, (especially, the basic rights of liberty, equality, and freedom), the Universal Declaration of Human Rights (UDHR), in no uncertain terms

declared that all individuals are equal in the eye of law. All are deserves to be treated with utmost respect without harming the dignity of others at all times. If people across the world follow the ethical norm of dignity without any deviance, the realisation of right would be easy. This fundamental norm applies to individuals and States to follow with strict adherence. In the modern context though a number of conventions, covenants, and declarations have been adopted in the international arena, to promote human rights on the concept of dignity. The lack of adherence by individuals and nation-states brought in untold sorrow, and miseries to mankind. The non adherence to ethical values, especially, indecent behaviour of individuals at times, posing a number of problems in the contemporary era. This in turn has an effect in the promotion and realisation of human rights.

Liberty

Liberty is another concept which play a vital role in the promotion of human rights. Liberty is an ancient concept. This concept has its roots in the political philosophy. A number of philosophers like, Hobbes, Locke, Rousseau, and many more have articulated Liberty in different contexts. In simple terms, liberty means, human beings are free to regulate their relations, and are able to govern their relations, behave at their own will, and be responsible for their acts. The concept of liberty is centred around responsibility or duty. Basing on the acts performed by individuals, liberty can be enjoyed or achieved. If the acts are bad or performed with an intention to defray anybody or deprive them of their legal claims, they not only affect the rights of others, but also of their own in the long run. This in turn will have an effect on the realisation of their rights.

The concept of liberty is the basics for the development of a right. According to Hobbes, every individual is empowered to enjoy their freedoms freely without the interference of any other person. In his social contract theory, he argued that the divine will of kings to regulate the relations and to restrict the freedoms of individuals is antithesis to liberty of individuals. The enlightenment of liberty by various political and legal philosophers, led to a number of political revolutions across the world. This in turn led to establish democratic societies on the basis of liberty of individuals to choose their leaders.

In the contemporary era, the excessive arguments for liberty, and its indiscriminate exercise without strict adherence to duty by individuals in their

numerous acts, again resulted in bringing miseries to the world. In order to resolve the problems and to provide a problemfree world, the UN took a number of legal steps for the promotion of human rights. The aim of these acts of UN is to regulate the behaviour of the mankind and to guide them to discharge their duties to uplift the moral and ethical values. This in turn will help to restore liberty in its true sense and makes individuals to be happy for their legal and justified actions.

Apart from the above, it is the duty of nation-states also to adhere to the principles of international law and human rights in their relations, respecting the concept of liberty of the other nations and their citizens. The Strict adherence to liberty and practice of self restraint alone would yield the desired results in protecting the rights of every citizen as guaranteed by law.



Equality

Equality is another important component of human rights. From ancient to modern times, people are fighting to achieve this in terms of its practical application to each situation. In general, equality proposes to bring all the people into one category, and apply the principles of law, and justice without any distinction, whatsoever it may be among the individuals. Equality is a relative concept which may be distinguished basing on a number of factors, and the enjoyment of rights on an equal footing. The aim of the Universal Declaration of Human Rights and the Constitutions of the various countries including India are to treat all the people on an equal footing without any kind of discrimination. This may be referred to formal equality, wherein in the eyes of law all are equal.

Although, all people are numerically considered as equal in the eyes of law, in providing the amenities or distribution of resources, all may not be considered or treated as equal in reality. This is because of the socio, economic, political and cultural conditions that prevail in each society. In order to uplift the people who are not equal on any ground specified above, they need to be given certain concessions and facilities to improve their status and to reach the equal status with that of others who are on a high pedestal.

To achieve the rigour of equality and to fill the gap especially on socio-economic, and cultural grounds, the principles of international law of human rights provides for the necessary concessions to be extended, to people at the national level by states. This will result in to achieve the status of equality of all in the eye of law. Once they achieve the equal status in all respects, the concessions extended to specific group of people to uplift their status, may be withdrawn by the state. The same principle applies to states at the International level. Accordingly the developed states need to extend concessions to the developing states.



Justice



Justice in simple terms may be defined as righteousness, fair and to be treated on just and equitable grounds. Justice is an important concept which has attracted a number of fields especially, law and philosophy. To achieve absolute justice, scholars have prescribed a number of factors. Basing on the various factors that are relevant to each society, and to fill the gap between unequals and equals, from ancient to modern times, a number of scholars have advocated various theories to achieve the concept of justice. In order to measure the concept of Justice, a number of tools are required. To achieve perfect justice, it lays its emphasis on concepts of equality, morality and ethics. The aim of human rights is to provide such stable conditions to everyone by the states, which alone could help to achieve the rights in a justiciable manner. According to Plato, Justice being the highest value, and to attain it, an individual has to be provided with all the necessary conditions to realise the right, and to discharge his duties towards society. It again lay emphasis on the actors and the state as well to discharge every single obligation with devotion of duty and respect for other values.

Ethics and Morals

Ethics and Morals are considered as equal concepts. However, there exists a subtle difference between these two. Morals deal with the personal character of an individual. On the other hand, Ethics lays its importance on a social system, which regulates the code of conduct of a group of individuals. In other words, the morals need to be applied in each society depending on the values that are acceptable by a society. From the perspective of human rights, the concept of freedom and liberty being basic principles forms part of moral principles. The concept of Justice, Equality and the participation of individuals in the socio-cultural aspects of the community are ethical aspects. Accordingly, every human being in a society is responsible at all times to strive to achieve human rights as a moral or ethical subject of society.

Value is the central issue of ethics. Ethics is a normative science of human conduct in society, which differentiates between right and wrong, good or bad, proper or improper. The standard, which makes one to differentiate good from bad or right from wrong, is a value. Ethics with reference to human rights presupposes freedom as a necessary pre-condition. A free man can take his decision of action and such a decision can be evaluated as good or bad, right or wrong, proper or improper. Goodness is the highest of value. Goodness is objective, universal and rational. Some basic values are: courage, tolerance, benevolence, kindness and friendship. Values are instrumental or absolute, intrinsic or extrinsic.

Values provide a standard to decide that an action is good. The basic issues of ethics/moral philosophy are: freedom, duty, rights, responsibility, happiness and goodness. Values are based on common or social consent. They are shared by all in the society.

The above brief discussion of the various concepts, highlight the significance that human rights can never be achieved *in toto* until and unless, we the people of the United Nations (which includes the nation-states), discharge the responsibilities with utmost sincerity. This in turn enables us to achieve, universalization of human rights without any kind of deviation to race, sex, language, religion, region, etc. This leads one to learn how to live in a diversified world, more particularly in the contemporary era of fourth phase of globalization, wherein the concept of unity in diversity assumes greater significance than in yester years.

Unity in Diversity

Unity in diversity in general means, people of different backgrounds basing on their socio-economical, politico-cultural perspectives have to live like a single family. This means, the different faiths and characters that people posses have to live in a compatible manner under a single legal roof governed by a State. The same is applicable to people around the world, and the nation-states learn to live as one community. This being the main aim of international law to establish a one world concept, it had given birth to human rights. Its aim is to achieve, the aspirations of profoundly divided humanity by setting a common standard of norms for all people and all nations. To accomplish the one world concept, the mankind has a responsibility to learn to live harmoniously. Further, it will enable us to achieve the basic tenets of life, liberty, equality, dignity and freedom of thought and expression with due care and caution to promote the rights of all the people living in different political systems. This will in turn enable us to claim legitimately the protection extended by human rights. And, to justify the existence of man as a human kind living under different political regions. It will help further, to establish the fundamental goal of United Nations to resolve innumerable problems that are haunting us both nationally and internationally. Nearer home, the concept of '*vasudhaiva kutumbakam*', in the Indian context advocates the same ideology of living together of mankind with values and morals, which alone ultimately establish a conflict free society.



Meaning and Significance of Human Rights Education

Education should encompass values such as peace, non-discrimination, equality, justice, non-violence, tolerance, to live in peace and security and respect for human dignity. These objectives can be achieved only through imparting human rights education, which is an integral part of right to education. Human Rights and Duties Education helps in achieving a comprehensive growth of every society.

According to the UN decade document for human rights education (1995-2004), human rights education means, **“a lifelong process by which people at all levels of development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring that respect in all societies.”**

From the above definition, it is clear that people living in any society have to discharge their duties with utmost sincerity at all times without any deviation. Such practices will promote the freedoms of all and could transform a society to achieve its objectives. This being the concern of human rights education, impartation of it results in, to achieving the principles of democracy, rule of law, and social justice. Further, it will help to establish peace and security. It further enables us to achieve an all round socio-economic, political, and cultural sustainability.

Objectives of Human Rights Education

- Human Rights Education promotes respect for human rights of all individuals.
- It develops the knowledge, skills, and values of human rights.
- It develops the socio-psychological, human personality.
- It helps people and policy makers to evolve the ways and means to overcome the problems of each nation and that of the International Community.
- It helps to foster understanding, tolerance, gender equality and
- Develops friendship among all nations and eliminates racial, ethnic, religious, and linguistic differences.

A number of models are developed to impart the above values of human rights education. Among the various models, the following three considered as the vital ones, to achieve the aims and objectives of human rights.

1. **Values and Awareness Model:** This model focuses on transmitting basic knowledge of human rights and to foster the integration into public values through a curriculum of educational institutions.
2. **Accountability Model:** This model focuses on the ways in which professional responsibilities to inculcate directly monitoring human rights violations and advocating the authorities to protect the rights of the people.
3. **Transformational Model:** This model aims to empower the individuals in order to recognize the abuses of human rights and their prevention.

These being the core concepts of human rights education, the UN has framed guidelines to propagate human rights through various methods and means both in the International and the National levels.

Summary:

- Value being an important aspect of life, it forms part of Law and Society. Value being a central point regulates the relations between individuals; scholars have identified number of points. By adhering to these points, an individual can achieve the goals in life.
- Dignity being another aspect of value regulates the behaviour of individuals. The human relations and the exercise of human rights depend on the dignity, is the most important aspect in the basic rights of liberty, equality and freedom. The entire human rights law has been developed basing on these aspects.
- Liberty is another important concept. According to various scholars, duty alone protects the concept of liberty. It is this concept that has given a basis for right. If liberty is not exercised properly, it will result in upsetting the appplecart of rights.
- Equality is an important component of human rights. Equality proposes to bring in all people under one category. Any kind of inequalities are in existence, it is for the States to eliminate them through a legal mechanism. This will result into a classless society.
- The aim of human rights is to do justice to every individual. In order to achieve perfect justice, all the qualities of human kind and the values need to be followed by every individual to achieve the realistic concept of justice.
- Ethics deals with personal character of individuals. Morals lay emphasis on the social system. The strict adherence of ethical practices alone makes a society healthy which in turn could help the people to realise their human rights.
- There exist a number of differences between various individuals in a society. However, obedience to human rights will result in living together with unity in diversity among the individuals. The outcome of it will bridge the gap between nation-states and to establish the concept of one world.
- Human Rights Education teaches us the practice of various values to be adhered. At the same time, the knowledge of it, transforms individuals accountable for their acts either at personal level or societal level. The knowledge of human rights would also lead us to establish an orderly, peaceful, and friendly society both at the international and national spheres.

Model Questions

Write only one Word answer to the questions

1. Which subject in general deals with values?
(A) Philosophy
2. What does dignity conveys?
(A) A Decent behaviour
3. Which concept gave the basis for right?
(A) Liberty
4. Ethics deals with what aspect ?
(A) Personal character
5. Human Rights Education is.....
(A) life Long Process

Multiple Choice Questions

1. What does Unity in Diversity exactly means?
(A) Single family (B) living together with differences (C) a place for everyone
(D) living together with respect to every one's recognised dignified practices
2. What is advocated by Ethical Values?
(A) Social system (B) compassionate living (C) Devotional living (D) Rule making
3. What is the main aim of Human Rights?
(A) To teach Morals and ethics (B) to develop friendly relations (C) to make people sensible (D) to establish peace, security and one world
4. Values Model is part of which of the basic concept?
(A) Dignity (B) Human Rights Education (C) Liberty (D) Justice

Answer : (1) D (2) A (3) D (4) B



Perspective of Rights and Duties

This Unit will briefly summarize the meaning of rights and their importance and the conceptual perspective in brief. It will examine the relationship between rights and duties and the values that bind on the individual in discharging their duties towards one another in a civilized society.

(A) Rights

Etymology of 'right':

The word which we use in the modern English terminology has its origin from the old English right or reht. In the early periods, it had been used with different nomenclatures in various languages across the World. Accordingly, it has gained a number of meanings, depending on the situation with a wide variety of expressions. In the language of law, they are moral, ethical entitlements which need to be conferred and exercised as framed by an authority of law.

Basing on the different expressions, there exist a considerable debate in the academic circles, especially in the fields like, Political Science, Philosophy, Anthropology, and Law about the foundation, meaning, and function of right in different contexts. Before discussing the various types of rights, a simplified meaning and analysis is provided here for an easy understanding of various facets of a right.

Meaning of a Right:

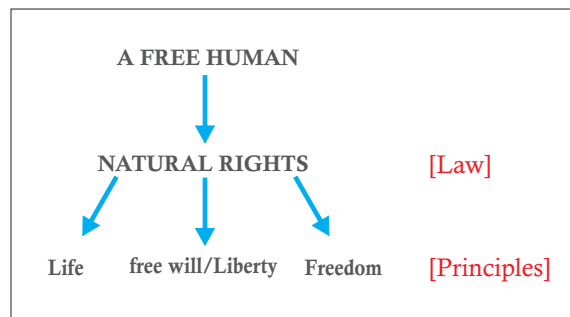
From a historical point of view, 'right' in its objective sense is described as right or just actions that individuals have to discharge to maintain harmonious relationships between themselves. In the modern or subjective sense, its definition is long and divisive. Whatever may be the controversy, and scholarly discussion that surrounds the historical origins, and the different meanings that 'Right' has, in general rights mean- a legal sanction or normative value.

Analysis of Right :

In its analytical perspective, "right" has two parts (form and function). One is the internal structure of right (their form); and the other is what rights do for those who hold them (function). Accordingly, right is a combination of claim and duty. This

means a right confers certain liberties or privileges and imposes duties upon individuals to exercise while claiming their rights. A number of jurists define the concept of exercise of rights with duty as positive and negative rights. Accordingly, the person who is possessive of positive rights entitled to provision of some goods or services. A holder of negative right is entitled to non-interference. In the eyes of law, Right confers on a person certain amount of liberties and privileges. At the same time impose obligations to discharge. Furthermore, possessing a right should also enable a person to exercise it. This part of empowerment mechanism could be achieved only by imparting the values of human rights education.

However, basing on the common usage of the term philosophers and political analysts in subjects like philosophy, politics, law and logic et.al., have defined the rights in a number of categories. Accordingly, rights may be broadly defined as 1) Natural Rights; 2) Legal Rights; 3) Claim rights; 4) Liberty Rights; 5) Positive Rights; 6) Negative Rights; 7) Individual Rights and 8) Group Rights.

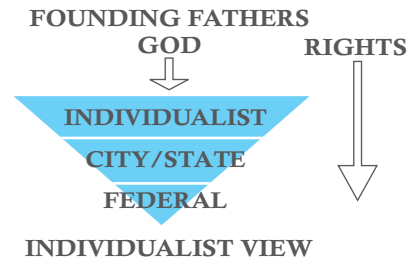


Natural Rights:

The concept of Natural rights is closely associated with the philosophy or theory of Natural law. According to this theory, nature or God alone regulates the wisdom and the activities of men. The kings being the divine origin, as representatives of God, the rules framed by them were considered divine in nature. But in the age of enlightenment (or Age of Reason) of the eighteenth century a number of Western advocators like, Hobbes, Locke, Hugo Grotius, Rousseau, Samuel Pufendorf, et.al., challenged the origin of divine concept to natural law.

A natural right is nothing but, rights based on just, fair and reasonable. This means, the individuals unite themselves to form political societies through mutual consent, and agree to form a government of their own. It will enable them to lead their life through common rules and regulations framed by either them or their representatives. At the same time, they accept a set of legal and moral duties to be observed or bound by them in the exercise of their rights in order to live in peace and security without any violence.

However, this being the central philosophy advocated by all philosophers of natural law, there is a difference of opinion that exists among them. A section of modern naturalists argue that since human rights are closely associated with the concept of natural rights, there exist no difference between natural and human rights;



both are one and the same. But some traditionalists argue that since natural rights are not framed by men and are the dictates of right of reason of nature, both cannot be equated. According to them, since natural rights are being above the power of any authority either state or international bodies, and are universal in nature, they cannot be equated with human rights, because they are adapted by human society through an international body and not of divine origin.

A close examination of both the above pictures clearly explains the theoretical differences. In a simple manner, natural rights essentially are the Life, Liberty and Freedom that an individual possess and the way to live without any disturbance or interference by others. Accordingly, by birth, the rights are inherited with the body of the individual as the gifts of God or nature. Hence, they are inherent or inalienable rights.

The second picture explains the arguments of the modern natural philosophers' view that though a human being is born with free will, as a social animal one has to have minimal limitations in the exercise of their natural rights. Because, man himself created the modern concept of state, they have to adhere to the laws framed by the state, so as not to disturb the rights of others. These rights are otherwise referred to as Legal Rights that are sanctioned by the authority of law which entitles a claim to an individual to have his rights enforced legally.

Legal Rights:

Legal Rights means, rights that are guaranteed to citizens of a country by law to enjoy certain freedoms without any fear or favour. Legal rights also referred to as statutory rights, bestowed by a particular government to the governed and are relative

to specific cultures and governments. These rights are enumerated or codified into legal statutes by a legislative body. These rights may differ from country to country depending upon the constitution and culture that they adopted. Nevertheless, at the same time legal rights impose an obligation on other people not to exceed the prescribed limits of law.

Claim Rights and Liberty Rights

Claim rights means, the rights that impose an obligation on another person to respect the right of the other person. Liberty rights means, rights that are to be exercised at free will by the holder of rights, without any obligation on another person in exercise of his/her right.

For example, a person has liberty to speak freely as he likes, is a liberty right. But at the same time, if it affects the rights or hurts the reputation of another person, then it turns into a claim right.

Positive And Negative Rights

A section of philosophers drew a distinction, which is thin and narrow between positive and negative rights. Positive rights means, rights for which a person is expected to discharge some service or to do good independently or to the society as a whole. Negative rights impose an obligation on others not to interfere with the liberty or independence of another holder of rights. In the language of law since both rights are passive rights, it is difficult always to classify these rights in a strict sense. The Universal Declaration of Human Rights (UDHR) has both the characteristics of Positive and Negative rights. Many scholars argue that since there is a co-existence between the two concepts; a distinction is not necessary.

Examples for Positive Rights: These rights normally impose duty either on the state or on society or a group of individuals in satisfying the claims of owners of rights, (for example) Right to Education, Right to Health, Social Security etc. In the Indian context these are described as the Directive Principles of State Policy under the Constitution of India. It is not easy to achieve this category of rights as they depend on various factors including the resources. These rights are referred as Economic, Social and Cultural rights in the language of human rights.

Negative Rights Examples: The rights normally impose a duty on every individual as a moral and legal obligation to refrain from causing injury to the exercise

of the right of other person. Right to freedom of speech and expression, right to life and liberty, right to equality, right to property, right to be heard right to speedy trial and justice, right to worship, freedom of religion, right to legal remedy etc. are referred to as Civil and Political Rights in the UDHR.

Individual and Group Rights

Individual rights mean the rights that belong to an individual alone. These rights are mainly political, economic, or legal in nature. These rights can be exercisable by individuals to enjoy their life and liberty without any interference of anybody including the state. However, the individual rights have positive and negative elements. Positive element obligates a person to discharge the right according to law. The negative element prohibits any act that is not permitted by law.

Group Rights means rights that are enjoyed by a group and as well as individually. For example, the rights of disabled persons are considered as group rights. They promote the rights of the disabled as a group. At the same time, an individual disabled person also could claim the rights independently of the group.

From the above brief discussion, a right may be defined as something that one possess to exercise either naturally, legally, or socially with a moral/legal duty to act without violating the right of others. Accordingly, a right has five elements in it. They are:

1. A right holder (which the subject of a right) has claim to
2. Some substance of it (the object of right)
3. Which he or she may assert, demand, enjoy or enforce (exercising a right)
4. Against some individual or group (the bearer of the correlative duty)
5. Citing in support of his or her claim on some particular ground (the justification of a right)

To exercise a right at least two persons are necessary and the claim that they want to exercise should have a legal basis to justify in the eyes of law.

Universal Rights

Universal rights means rights that every individual would able to exercise their freedoms irrespective of their country of origin, residence freely without any interference by the state or any other person subject to legal limitations. These rights

promote the dignity and the worth of an individual at all times. Hence, they impose obligations on every state to protect and promote the dignity and the freedom of individuals without any discrimination as to race, sex, language, or religion. Since these rights are the minimal in the life of an individual, Franklin Delano Roosevelt, the former President of USA in his joint address to the US Congress on January 6, 1941 advocated freedom of speech, freedom of worship, freedom from fear and freedom from want as the basic principles for the worth and dignity of an individual.

Basing on the above principles, the ideology of freedom of the individual advocated for many centuries. The United Nations in its Charter adopted on October 24, 1945 recognized human rights as a part and parcel of international law. Accordingly, the concept of human rights took their birth in international law. They in turn impose an obligation on every state to promote them without any discrimination. These rights have been further elaborated through the Universal Declaration of Human Rights adopted on December 10, 1948. Though there exists a difference of opinion about the Universality of human rights between political philosophers and scholars of international law, in view of their wide acceptance by 193 member states of the United Nations, they are no doubt constituted as universal rights.

A right is that which a man demands from others justifiability. A responsibility is that which makes a man accountable to his actions and consequences of his actions and conduct. A right can be moral, ethical, legal or social or cultural. Rights are treated as moral when they are natural i.e. enhance the existence. A rational right is justifiable and not emotive. A right has to be based on reasons and it has to be always general.

(B) Nature and Concept of Duties

Definitional differences between Obligation and Duty

The word obligation commonly refers to as a synonym of duty or vice-versa. However, strictly speaking there exists a difference between the two. According to H.L.A. Hart, duty and obligation are distinct to each other. A right exists without any correspondence to an obligation incurred or created, at times. Whereas duty arises from position, status, role. This means every time a duty has a connection with the position of person, which is linked with right. Hence, an obligation may not correspond to a duty at all times. It is only usage or practice of referring to right as a synonym of duty. In the eyes of law they are different, and especially in the area of rights.

The above distinction is described by a simple example :

A invited his friend X to a dinner party. X promised him that he would attend without fail. However, X did not attend the party. In this case, X has an obligation to go to the dinner party. But by not attending, he has not either violated or breached the right of A.

If a person occupies a job in an office or an organization he has, a duty to discharge all the legal work associated with the job, whether he likes it or not.

One may wonder why then the concept of obligation and duty are referred to as synonyms. This may be due to the fact that political, social, or moral obligations need to be fulfilled or discharged, which are moral in character are also considered as duties many a times.

For example, a person should not tell a lie at any point of time. However, in a given circumstance by revealing a truth, which may affect the life of a person, he may tell a lie, though he has a duty to speak the truth. Due to this type of interchanges between laws that are moral and legal, the word duty is equivalent to 'obligation' or 'ought'. On this point, there exists a vast literature in both philosophy and legal fields. The skeletal difference that exists between the two was analysed in the ancient philosophy of India on the basis of Dharma, which encompasses both moral and legal duties to be discharged by all without any deviance.

Concept of Duty

As discussed above, normally, duty is linked with 'obligation'. The concept of duty arises from fulfillment of a requirement. Duties arise in several ways and means, such as moral duties, legal duties, parental duties, societal duties, and civil duties etc. However, from the point of view of law, duties arise from legal norms or requirements. They have to be discharged, the way it was prescribed. Accordingly, the actions constitute as right or wrong basing on the discharge of duty. If one acts contrary to a duty, it constitutes a wrong. (For example, a legal norm tells us not to speak ill of others which will affect their decency, if speaks ill of others, it constitutes as wrong.). A duty imposes an obligation to respect the rights of others and the society. Hence, rights and duties are reciprocal. A right is demand and a duty is an expectation.

The different types of duties

Duties may be distinguished between (1) natural and acquired duties, (2) positive and negative duties, (3) perfect and imperfect duties and (4) prima facie and all things considered as duties.

(A) Natural and Acquired Duties

Natural duties bind all of us without any specification by any institution or body. Each one of us discharge these duties voluntarily. For example: not to harm others, not to tell lies, not to misuse the freedoms, duty to respect others, not to injure the innocent, not to beat children, to uphold truth and justice, etc.

Acquired duties are duties undertaken by individuals by virtue of something they have done, or as a particular relationship, which they might have with others. This means, certain duties are legal, and need to perform the acquired obligations basing on one's willingness. If refused to perform after consented to discharge, it attracts legal consequences.

Another type of acquired duties results from special relationships that individuals undertake as groups, often referred to as responsibilities. For example, parents discharging their duties towards their children, doctors to patients, and lawyers to their clients. These duties assumed by individuals to exercise automatically by accepting to act in a specific role.

(B) Positive and Negative Duties

According to another legal jurist John Rawls, positive duties require us to do good. On the other hand, negative duties impose restrictions on doing bad or refraining from acting. Helping the poor may be a positive duty, which may not have any obligation. However, not to tell lies or not to harm others is a negative duty, which imposes an obligation.

(C) Perfect and Imperfect Duties

Perfect and Imperfect duties appear similar to that of the positive and negative duties. According to Prof Immanuel Kant, a German philosopher, they are not similar. Perfect duties expect individuals to discharge the incurred obligations as per the goal that is set at all times without any deviation. Imperfect duties have no rigidity. Imperfect duties are duties that are never completed in its true spirit. The performance of these duties depends on circumstances. According to Kant, it is difficult to cultivate one's own talent is an example for imperfect duty.

(D) Prima facie and all things considered duties

According to W. D. Ross, people mostly discharge their duties to live up to their promises as a goodwill. This means, many a times people perform their duties basing on the advantages and disadvantages. This being the primary concept of duty, Ross calls individuals to be rational in discharging their duties in a proper manner without harming the interests of others.

Human Rights have the above duty perceptions in its philosophy. To eradicate the present day maladies, and to improve the moral and ethical standards among individuals as beneficiaries and defenders of human rights, we have to discharge the duties advocated by human rights sincerely.

In this regard, the UN High Commissioner of Human Rights while celebrating the 50th anniversary of the adoption of the Universal Declaration of Human Rights in 1998 in the city of Valencia in Spain under the auspices of UNESCO adopted a *Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. It is also known as Valencia Declaration of Responsibilities and Human Duties.*

The shifting of formal equality to substantial equality and the continuous violations of human rights by the actors (both the states and individuals) across the World, a number of Noble Laureates and scholars requested the UN to adopt a declaration highlighting the duties of mankind. In order to provide a legal base for the declaration, the General Assembly adopted a declaration on Responsibilities and duties of mankind in 1999.

The Principles of the Declaration summarized into different heads as follows:

Rights and protections accorded to human rights defenders

The Declaration provides specific protections to human rights defenders, including the rights:

- To seek the protection and realization of human rights at the national and international levels;
- To conduct human rights work individually and in association with others;
- To form associations and non-governmental organizations;
- To meet or assemble peacefully;
- To seek, obtain, receive and hold information relating to human rights;

- To develop and discuss new human rights ideas and principles and to advocate their acceptance;
- To submit to governmental bodies and agencies and organizations concerned with public affairs criticism, and proposals for improving their functioning, and to draw attention to any aspect of their work that may impede the realization of human rights;
- To make complaints about official policies and acts relating to human rights and to have such complaints reviewed;
- To offer and provide professionally qualified legal assistance or other advice and assistance in defence of human rights;
- To attend public hearings, proceedings and trials in order to assess their compliance with national law and international human rights obligations;
- To unhindered access to and communication with non-governmental and intergovernmental organizations;
- To benefit from an effective remedy;
- To the lawful exercise of the occupation or profession of human rights defender;
- To effective protection under national law in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights;
- To solicit, receive and utilize resources for protecting human rights (including the receipt of funds from abroad).

The Duties of States

According to the Declaration, States have a general responsibility to implement and respect all the provisions of the Declaration. However, some of the provisions make particular reference to the role of States and indicate that each State has a responsibility and duty:

- To protect, promote and implement all human rights;
- To ensure that all persons under its jurisdiction are able to enjoy all social, economic, political and other rights and freedoms in practice;

- To adopt such legislative, administrative and other steps as may be necessary to ensure effective implementation of rights and freedoms;
- To provide an effective remedy for persons who claim to have been victims of a human rights violation;
- To conduct prompt and impartial investigations of alleged violations of human rights;
- To take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to, in the Declaration;
- To promote public understanding of civil, political, economic, social and cultural rights;
- To ensure and support the creation and development of independent national institutions for the promotion and protection of human rights, such as Ombudsmen or Human Rights Commissions;
- To promote and facilitate the teaching of human rights at all levels of formal education and professional training.

The Responsibilities of Everyone

The Declaration emphasizes that everyone has duties towards others and within the community and encourages us, all to be human rights defenders. It is the duty of every one of us to promote human rights, to safeguard democracy and its institutions and not to violate the human rights of others. It further emphasizes the role of professionals and practitioners, especially that of Police officers, Lawyers and Judges as defenders of the Human Rights.

The Role of National Law

The resolution also imposes a responsibility on the states to implement these principles and promote them by adopting appropriate legislations. Accordingly, each country is responsible to enact appropriate legislation to incorporate the duties of the citizens. The Indian Constitution has already incorporated the duties through the 42nd Amendment Act in 1976, well in advance before the adoption of the Declaration.

The Valencia declaration is a significant one in the annals of human duties for the promotion of human rights and protection by all the actors. The Final Version of the Declaration is available at (tercermilenio@valenciatercermilenio.org and <http://www.valenciatercermilenio.org>)

Impact of Duty on the Society

Every individual has duties towards the society or state. According to the Universal Declaration of Human Rights, the duties of each person towards the State are:

- To obey the law and other legal commands of the state and its agencies in a country.
- To render the services in civil and military affairs whenever required by the state for its defense.
- To cooperate with the state and the community with respect to social security and welfare to the extent possible.
- To pay the taxes established by law for public purposes.
- To Protect the property and culture of the state.
- Not to discriminate or advocate anything on communal, linguistic and religious or any other ground that affect the liberty of other individuals.

The duties towards society are:

- To respect the women, children, wounded, sick, and elderly persons.
- Rendering charitable work through social service, education, religious activities, cultural activities etc.
- To respect the rights and responsibilities of others.
- Not to make false allegations or complaints against others.
- Not to misuse the laws and regulations.
- Not to discriminate or advocate anything on communal, linguistic and religious or any other ground that affect the liberty of other individuals.
- To follow and obey the moral and ethical values that belongs to each society.

There are innumerable duties that an individual has towards state and the society. The above stated few are only illustrative in nature. The strict adherence of the duties prescribed by each state and society alone contributes for the sustainable development. In the modern context, many people think of their rights without acknowledging that they have a duty to protect the rights of others. This degradation of duty perspective has brought in a number of upheavals in the contemporary area. If people are duty conscious, automatically the country and its institutions also follow the duties without any deviance. The sincere practice of duties and exercise of rights certainly will create a society or state that is tension and problem free.

Duty as a value

(Please read Unit I, and link the concepts of value with duty.) Actions of an individual are based on choices and behaviour, duty being one of the main components of value system, it inculcates a number of values in individuals. As we have examined above the number of duties and rights, and their relationship, duty certainly constitute as a core value to regulate the moral, ethical, and social behavior of individuals. From ancient to modern times, a number of scriptures, statesmen, and religious texts of various faiths have advocated duty based value system, to regulate unnecessary temperaments of individuals and to promote a healthy society or state. Hence, discharge of our moral and legal duties alone could bring in harmony and helps to realise the guarantees of human rights fully in promoting life, liberty, and equality.



Accordingly reposing its faith on duties, the Universal Declaration of Human Rights through Article, 29 (2) clearly impose duties of public and moral character to be exercised by individuals before claiming their rights and freedoms for the promotion of a welfare state or society. The Article is restated below:

“In the exercise of his rights and freedoms, everyone shall be subject to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”

The above brief discussion clearly signifies that duty constitute the first basic value of an individual to be exercised at all times without any deviation before expecting the rights to be protected or realised.

The above picture was developed by the Sathya Sai Insitute to inculcate human values to youth. The aim of the picture is to develop the necessity of interdependence and to highlight the significance of duties that every individual possesses to themselves, to others and to society or country.

Inter Relationship between Rights and Duties

The two phrases 'rights' and 'duties' co-exist with each other. In other words, the rights and duties are two sides of the same coin, to regulate the values and behavioral patterns of an individual. On one side, rights are important in developing the human personality and behavior. The duties on the other hand, direct the individuals importance of their contribution for the promotion of social good. In a way duty targets at the realization of rights guaranteed by various laws and regulations both nationally and internationally. The same philosophy applies to states also to discharge their duties towards their citizens. The increasing number of violations by states in protecting the rights of the individuals across the World has led the United Nations and other organs of the world community including the civil societies to focus more on the duties than on the rights in the contemporary era.

According to Prof Harold J. Laski the inter relationship between rights and a duties are as follows:

(a) One's right implies the other's duty.

This means every right of an individual automatically impose a duty on others. For example, the right to freedom to move freely or privacy impose a duty on others not to interfere with the right of movement or privacy of anybody, except regulated by law.

(b) One's right implies one's duty to recognise similar rights of others.

This implies that every exercise of right is subject to restrictions. For example, one has freedom of speech and expression. However, at the same time, everyone has to bear in mind that the exercise of free speech and expression in no way affects the rights of others or their life, liberty or dignity of others.

(c) One should exercise his rights for the promotion of social good.

If any person tries to misuse the rights, which affect the rights of others or of the society or state, the Government has a duty to take appropriate legal action to prevent such acts. For example, if a person tries to abuse his right to freedom of speech and expression by indulging in spreading wrong aspects about a section of people or of a particular religion, the state can take legal action. Any such action by the state is justified.

(d) As the State guarantees and protects the rights of everybody, one has a duty to support the State.

State being a nucleus organ need to take care of the social and legal interests of all the individuals. It is normally expected by everyone as stated above, to support the state in all its legal endeavours.

The above discussion in this unit clearly brings out the significance and the types of rights that individuals possess in a society. It also focuses on the importance of duties and the inter-relationship that exist between the two.

Summary:

(A) Rights

- Rights have different meanings. However, in the eyes of law they are legal and moral entitlements, which need to be adhered by everyone.
- Right has a legal sanction. Violation of it attracts legal action.
- Natural rights guarantees certain fundamental rights to enjoy freely by birth as human being.
- Law accords legal rights to individuals to enjoy their rights freely without any interference subject to limitations of law.
- Claim rights means, a person who can seek a legal remedy for the prevention of its violation by others.
- Liberty rights are rights freely exercisable by every individual without a sanction or duty on other person. For example Laughing and practicing a religious act
- Positive rights are rights otherwise described as dependent rights, which may be exercised, on their guarantee by state or society. These are described as Economic, Social and cultural rights.

- Negative rights, which impose a duty on a person to respect the right of another person. These rights are civil and political rights.
- Individual rights are economic, political, and legal. They belong to individuals to enjoy their freedom and liberty they want to exercise.
- Group rights are rights that belong to particular group of people in a society. They may often differ from the general rights of others in the society due to particular significance given to them.
- Universal Rights are rights that belong to people across the World without any difference as to race, sex, religion, language, or any other social, economic, political, or legal affinity.

(B) Duties

- There exist a difference between obligation and duty. Obligation arises mostly from ethical and moral perspective. Duty arises out of responsibility, which is legal in nature.
- Natural Duties bind on all of us. Acquired duties are accepted by discharging a particular duty.
- Positive duties imposes obligations to do good. Negative duties prevent us from doing bad things.
- Perfect duties expect us to be sincere at all times while discharging any duty.
- Individuals have duties towards state, society and to themselves and to their family.
- Duty is a value that dictates individuals to perform their moral and legal responsibilities at all times for the promotion of good to society and to individuals.
- Rights and duties have an inseparable relationship. Adhering to duties is nothing but adhering oneself to be dutiful and doing well to society and state.

Model Questions

Write only one word/sentence answer to the questions

1. **What is root word of `Right'?**
(A) From the English word `reht'
2. **In the modern sense the definition of right is – -----**
(A) Long and Decisive
3. **Rights can be divided into how many categories?**
(A) Eight
4. **Duty signifies -----**
(A) Legal obligation
5. **Duty as a value promotes -----**
(A) Good to society and to individuals

Model II

Multiple Choice Questions

1. **What entitlement will be there for a negative right holder?**
(A) Positive thinking (B) Non-interference (C) Positive Good (D) none of the above
2. **What is the alternative name for Legal Rights?**
(A) Statutory Rights (B) Possessive Rights (C) Passive Rights (D) Corporal rights
3. **Natural duties will bind on whom?**
(A) Special people (B) All of us (C) older people (D) Women
4. **In which year the General Assembly adopted the resolution recognizing the significance of Human Duties?**
(A)1998 (B) 1997 (C) 1999 (D) 2000

Answer : (1)B (2)A (3)B (4)A



INTRODUCTION TO TERMINOLOGY OF VARIOUS LEGAL INSTRUMENTS

This Unit will introduce the various terms that are employed in International Law and in all its branches including international law of human rights. So for easy an understanding the meaning and functioning of each of these words, they have been defined briefly without reference to legal technicalities.

NOTE ON LEGAL INSTRUMENTS

In international law, to regulate the day to day relations between the states, they enter into a number of agreements. These agreements establish legal relations between states and crystallize the rules of international law to a maximum extent. From the evolution of international law till date, numerous agreements have been entered by states. However, various instruments entered by states in international relations are often used with different names; in general, they are referred to as treaties. The different names of the various legal instruments are treaties, covenants, charter, conventions, protocol, and declarations.

Before discussing the various types of instruments, for a general understanding the following note is very important to know about the procedural aspect of the binding nature of these instruments.

In international law, any agreement or treaty negotiated or signed by states will not automatically come into force. In the negotiating stage itself, depending upon the number of states willing to sign the document, they fix a certain number of states to ratify such agreement. Accordingly, after ratification of such number of member states, the particular document will come into operation. This means, any legal instrument entered in a particular year either may come into effect immediately or may take a longer period to come into existence. For example the Vienna Convention on the Law of Treaties was adopted by the States in 1969 (it is to be remembered that in international law most of the agreements or instruments are named after the place in which country it is negotiated or signed). However, it came into effect only in 1980. Though an instrument's coming into force maybe another year, it is still linked to the year in which it was originally adopted. Even if an instrument has come into existence due to ratification, it will be binding only on those states, which have ratified the treaty, and not applicable to states who signed. This means, after signature of a treaty, a state has to ratify it specifically. At times even if a state ratifies a particular instrument, it

may expressly inform the Secretary General of the United Nations in whose office all the treaties are deposited that it is not going to accept all the provisions of the agreement and reserving some of them in the agreement. If the request receives the acceptance of international community, then its obligations are limited only to such provisions for which no reservation is made. This facilitates the states to take care of their local interests within the country. For example in the Convention on the Elimination of All Forms of Discrimination Against Women, popularly referred to as CEDAW, the Government of India has reserved a number of provisions stating that if it accepts such provisions, it may not be able to pass necessary legislation in municipal law, as it would result in disturbing the communal harmony between various religions. (The provision for common civil code is one among the main provision reserved by India.)

Treaty

The term treaty had no exact definition until 1969. In 1969, to develop the legal principles and to state the binding nature of legal instruments, a convention was adopted namely, Vienna Convention on the Law of Treaties, 1969. According to the Convention, a treaty is an international agreement entered between states in a written form, regulated by the principles of international law whatever may be title of such agreement. The principles of an instrument may be stated in a single document or may spread into two or more documents. In case if they are spread into more than one, all the documents and principles to be read together for the binding nature of an instrument or treaty.

Bilateral Treaties

Bilateral treaty means any agreement entered between two nations confining to the matters relating to them with specific interest between them. (For example India entered a treaty with USA for the supply of Nuclear energy is a bilateral treaty). These treaties will come into force without ratification and reservations. These treaties will be in force, till the time the agreement achieves its objects. Once the purpose of the agreement is over, the agreement will be terminated by a notification.

Multilateral Treaty

Multilateral treaty means an agreement entered by majority of states to establish

new principles of international law or codify to accept existing customary norms to regulate their multifarious activities. These treaties are similar to that of legislation of



a country. These treaties will bring in uniform rules to regulate the relations of states. Since the beginning of nineteenth century till now, remarkable numbers of multilateral agreements have been entered by the states. In general, multilateral treaties are referred to as conventions or covenants. These treaties impose an obligation on states after the completion of technical formalities of signing, ratification, to give affect by passing appropriate legislation in the country. For example, the TRIPS agreement, necessitated the Government of India to enact specific legislations or bringing in modifications in the existing enactments such as Law of Copyright, Patents Act, Trade Marks, and Designs Act etc.

Convention and Covenant

A Convention or Covenant is a multilateral agreement entered by States to bring in new norms or to settle existing conflicting norms of international law. A Convention may take a long time for the states to adopt into their municipal legislations after the technical procedures are completed. At times, they may even renegotiate to settle the conflicting issues by entering into bilateral agreements. Whereas in the case of covenant, they are bound to implement the norms by enacting legislation. The covenants normally deal with the general welfare of the people across the world establishing duties on the states to protect the interests of individuals at the national level. The Covenants on Civil and Political Rights, Economic, Social and Cultural Rights have led to every government to give effect to a number of rights and duties guaranteed to individual by the States.

Declaration

Declaration means a set of principles laid down by an international body or organization like the United Nations recognizing the significance of such principles to be followed by States. Declaration being primarily policy document which only enlists the views of an international organization, it has no legal validity and no binding

nature on the States. In order to give effect to such declarations, normally states after deliberations to crystallize the principles as binding legal aspects enter into conventions or bilateral treaties. For example, the Universal Declaration of Human Rights adopted by the UN in 1948 later crystallized into Covenant on Civil and Political Rights and Covenant on Economic, Social, and Cultural Rights, in 1966.

Protocol

A Protocol is a diplomatic word used in international relations. However, in the perspective of international agreements, if any agreement entered into by the states parties and later they want to incorporate or remove any provision, they have to adopt modifications. These modifications will generally be in written form and need to be adopted after all the formalities (such as negotiation, communication, signature, ratification, reservation etc.) are completed, and annexed to the main agreement (treaty, convention, covenant etc.). Such annexes to the original treaty are referred to as Protocol. In case if a state ratifies a convention, and has not ratified the protocol, then such protocol will not be applicable to such states, which have not ratified. For example, India signed the Covenant on Civil and Political rights but has not ratified the protocols. Accordingly, no Indian citizen can complain to UN Human rights Commissioner for the Violation of their rights by the state, if no remedy is available nationally.

Conference

In international law, conferences play a vital role. For entering into multilateral treaties, the deliberations of the states in a particular area are referred to as conferences. At times, a conference may lay down general norms or review the existing law and may suggest remedial measures for its effective implementation. For example, The World Congress on Human Rights in 1993 introduced a number of principles which later led to the adoption of independent conventions, resolutions and declarations by the UN on a number of areas. It also recommended for the strict promotion of human rights education by all the countries.

Resolutions

These are normally legal documents adopted by the Security Council, General Assembly or by any other body of the United Nations. These resolutions adopted by

the UN are binding upon the states dealing in their relations with each other.

Charter and Statute

Any legal document or agreement entered by sovereign states defining the principles of the functioning, structure, and powers of an international organization is referred to as a Charter or Statute. For example, the Charter of the United Nations; Statute of the International Court of Justice, etc.

Executive Orders

Executive orders are such orders issued by the sovereign authority of a state to give effect to the agreements that they have entered in. If there exist a contradiction on any aspect, they may state the policy of a particular state. These orders also play an important source in settling the disputes that arise between states in international law of human rights and other areas.

Summary :

- Treaty means an agreement legally binding on the states to regulate their day to day relations.
- Bilateral treaty is an agreement entered between two states to settle the controversial aspects of international law or to lay down norms governing their internal relations.
- Multilateral treaty means, an agreement entered between several states to formulate uniform rules of international law and its branches.
- Convention is another type of multilateral agreement, wherein states lay down general norms of international law especially under the auspices of an international body like the United Nations.
- Covenant is multilateral document enforced under the aegis of an international body. After a state signs and ratifies, they are bound to adopt the provisions through municipal law to protect the interests of their subjects.
- Conference is a diplomatic meeting of states to frame new norms to follow by states in their day to day relations.
- Protocol is an additional legal instrument entered by states to rectify the defects

in an existing document or to add additional provisions to an existing agreement.

- Charter or Statute is a legal document entered by sovereign states to define the structure, powers, and functions of an international organ.
- Resolutions are legal documents specifying or directing states to follow with a set of legal norms.
- Executive orders are orders passed by Head of a state laying down their internal policy matters on international law.

Multiple Choice Questions

(Model - I) One word answer

- 1) **A charter is a -----**
A) (Legal document)
- 2) **What is the internal policy formulations declared by a state are referred to as?**
A) Executive orders
- 3) **Which type of agreement in general impose an obligation on states to carry the principles of it in municipal law?**
A) Covenants
- 4) **All Agreements are constitute as treaties in international law. Is the statement true or false?**
A) False
- 5) **After what technicality an international agreement will be binding on a state?**
A) Ratification.

(Model - II)

- 1) **What is the meaning of a treaty?**
(A) Document (B) Note (C) Occasional paper (D) Legal Agreement
- 2) **With what Executive orders deal?**
(A) Internal Policies (B) External policies (C) International Law (D) Technical Details
- 3) **Who adopts resolutions in international law?**
(A) States (B) Subjects of International law (C) International Organs (D) None of the above
- 4) **With what a charter deals?**
(A) International norms (B) Human Rights (C) International Organs (D) A particular Body of an International Organization

Answers : 1)D 2)A 3)C 4)C



UNITED NATIONS AND HUMAN RIGHTS

This Unit introduces to the reader with a brief legal evolution and the significance of human rights in international arena. It will further describe various provisions of the Charter of the United Nations, which are concerned with human rights. It will then highlight the steps taken by the UN in drafting the Universal Declaration of Human Rights and introduce the objectives of the preamble. It then proceeds to examine each Article with explanation to UDHR.

An Overview of UN System

The basic object of international law since its origin has been to establish peace and security on the globe and to help mankind to lead a life with liberty, equality, and freedom from the atrocities. In order to achieve this objective, the officials of nation-states have laid their emphasis to protect the rights of mankind. Accordingly, the international legal policy started emphasizing on the promotion and protection of human rights universally without any kind of discrimination on grounds of sex, religion, race etc. This philosophy ultimately became the corner stone not only of all the branches of international law and the international community, but that of the states in their Domestic Laws.

After the World War II, the victorious powers (popularly referred to as Allied powers, namely, the US, UK, China, France, and former USSR) have taken the initiative to end the wars in future and to settle any disputes by peaceful means. This concept resulted in number of conferences, wherein the future nations and peoples of the world could have their confidence and live with utmost liberty and dignity. Accordingly, they decided to establish an organisation, which could provide the required legal regulation of the states on the basis of their participation. The name 'United Nations' was suggested for the future organisation, by the Former US President Franklin D Roosevelt, in 1942. According to him, United Nations represents a symbol of Unity of Independent Nations and their people who united to achieve peace forever and to give away the concept of war. This concept of Roosevelt received widespread recognition by other major countries. Accordingly, they established the United Nations in 1945.

Various movements which started from centuries back for the recognition of the rights of men and women, received widespread recognition especially, in the western world. However, the independent recognition by states in their constitutions had not

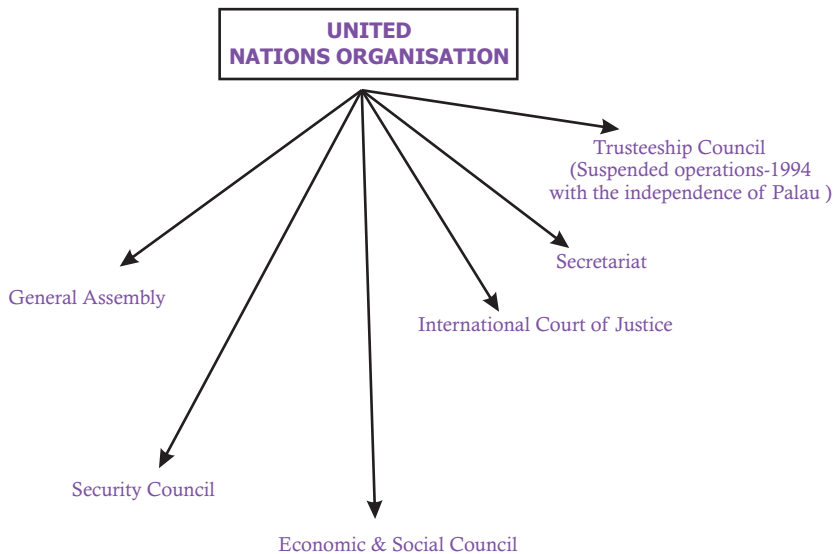


given the much required acknowledgement in the international arena. After the Second World War, the member states, while discussing on the establishment of United Nations seriously thought that in order to have similar rights of man across the world. Accordingly, after long

deliberations, the words human rights took birth in international law with the adoption of the Charter of the United Nations on October 24, 1945.



United Nations Organization has Six Principal organs, namely;



GENERAL ASSEMBLY

The General Assembly is composed of all the State parties' members to the United Nations. The present strength of the UN is 193. The Assembly meets once in a year normally in September. The president of each session is elected every year by the member states. The General Assembly is authorized by the Charter to oversee the various aspects relating to human rights.



SECURITY COUNCIL

The Security Council is the main body responsible for the maintenance of peace and security. It has a total strength of 15 out of which five are permanent members (U.K., USA, France, Russia, and China) and 10 non-permanent members elected for every two years basing on geographical representation. The Security



Council is highest body, whose decision is final on any matter. To receive any decision for implementation it requires at least a majority of 10 votes. The President of the Council rotates every month between the 15 States in alphabetical order. The representatives of members states should always be available in New York to facilitate the council to meet as and when it is necessary.

SECRETARIAT

The United Nations has a secretariat to coordinate with the entire work of all the organs of the UN. It functions under a Chief Administrative Officer referred to as Secretary General. The term of Office of the Secretary General is five years. It can be extendable indefinitely for any number of terms. However, no Secretary General has worked more than two terms. The Secretary General is appointed by the General Assembly on the recommendations of the Security Council. The Secretary General also normally elected on the basis of geographical rotation. The Secretariat provides for studies, information, and facilities needed by United Nations bodies for their meetings. The Secretariat is the depository for all the Legal Instruments entered by the states. It carries the work as directed by the organs of the UN.

The present Secretary General is from South Korea. He was elected in 2007 and is also reappointed for a second term which will start from 2012. Till date the following people served as secretary generals of the UN.

- Gladwyn Jebb Oct 24, 1945 to Feb, 1946 as an adhoc Secretary General from UK.
- Trygve Lie, February 1946-10 Nov 1952; Norway (Resigned)
- Dag Hammarskjold, 10 April 1953-18 September 1961, Sweden (Died in Plane Crash)

- U Thant, 30 November 1961-31 December 1971, Burma
- Kurt Waldheim, 1 January 1972-31 December 1981 Austria
- Javier Perez de Cuellar, 1 January 1982-31 December 1991, France
- Boutros Boutros-Ghali, 1 January 1992- 31 December 1996, Egypt
- Kofi Annan, 1 January 1997-31 December 2006 Ghana
- Ban Ki-moon, 1 January 2007 onwards, South Korea

ECONOMIC AND SOCIAL COUNCIL

The Economic and Social Council is one of the principal organs of the UN. It is responsible for the work of the Economic and Social affairs of the bodies of the UN. It has 54 states as its members. They are elected by the General Assembly for three year term. The election of the States is based on geographical distribution of regions of the world. It meets once in a year. This is the main body mostly looks after the affairs of the Human Rights and recommends to the UN bodies.



Trusteeship Council

Trusteeship council's objective is to promote harmonious relations among the people of dependent territories and to make the territories independent.

This council was established to administer the best interests of the people in the territories under mandates by the League of Nations or territories taken from nations after Second World War. After 1945 it was entrusted to see and to protect the interests of the people of the colonies. It has successfully achieved its object in decolonizing all the territories and in enhancing the rights of the people of those territories entrusted to it. Among the major success of it is in the African region, where it could secure decolonization of several territories from the colonial masters. (Trusteeship means any country that is dependent on another country, for its



economic, social, and cultural development. It was established in order to look after needs of the dependent country under the responsibility of international community where more transparent development will be there, than under the rule of the main country to administrating the activities of its dependent country). The Council had achieved the objectives of promotion of economic, social, cultural aspects of those territories (11 non self governing territories) that entrusted to it to become independent countries. Palau or Pelew was the last trust territory that became the independent Republic in 1994 under the purview of Trust territory. As a result, as of now, there is no single country under trusteeship. Hence, the Council has no role to play. However, the UN system still retains and plans to use its activities in future trusteeships if any come under its purview or may employ its activities to achieve all round development of human rights in underdeveloped countries with its experience.

International Court of Justice (ICJ)

The ICJ is the main Judicial Organ of the UN. It is situated in the Peace Palace at The Hague in the Netherlands. It settles the disputes submitted by the States and renders advisory opinion to the United Nations. The Court consists of 15 judges elected for a nine year term by the UN. The election takes place every three years, basing on the retirement of one third of judges. The President of the Court is elected by the judges.

The chart at the end of book clearly specifies the mandate of human rights law and the specific bodies that work in realizing them through nation states.



Provisions of the UN Charter dealing with Human Rights

The preamble of the United Nations, as discussed above, declared its aim to wipe out the fear of war, the promotion of human rights and the worth of human person and dignity of mankind. It also seeks to establish justice, and promotes corporation between the States to discharge their duties to create a just economic, social and cultural order wherein mankind can realize the fundamental human rights in accordance with the principles of international law. Accordingly, a number of provisions of the Charter have incorporated human rights. They are as follows:

1. Article 1 of the Charter lays down the purposes of the United Nations. Accordingly, it is one of the duties of the UN as a world body to take necessary steps to achieve international co-operation in order to reduce the inequalities of economic, social, and cultural aspects. It also oversees to promote and encourage the nation-states to respect the human rights of man and the promotion of all the fundamental freedoms without any distinction to race, sex, language or religion.
2. Article 8 lays down that the UN shall place no restriction on the eligibility of men and women to participate in any capacity equally in its principal and subsidiary organs. According to the provisions of this article, all persons of the world are eligible to join the UN and serve in its jobs as per the qualifications prescribed for each post. These jobs, the internships, and various projects that are available with UN are open to all without any discrimination to race, sex, language or any other ground.
3. According to Article 13, to achieve the purposes and objectives of the Charter, especially with respect to the promotion of Human Rights, the General Assembly (since the General Assembly represents all the nations), it has been entrusted with the task of taking harmonized steps in the promotion of human rights of economic, social, cultural, educational and fundamental freedoms.
4. According to Article 55, it is the responsibility of the United Nations to take all necessary legal steps to promote peace and cooperation between the member countries to attain higher standards of living, full employment and the promotion economic and social progress;
 - (a) To suggest solutions to help the states to achieve internationally economic, social, health, education, and cultural relations of a high standard; and
 - (b) To promote universal respect for human rights without any discrimination on any grounds whatsoever.

To achieve the objectives stated in the Article 55, the member states established the Economic and Social Council as one of the significant organs of the United Nations, in order to assist the General Assembly in realizing the protection and promotion of human rights.

5. According to Article 76, the member states established a Trusteeship Council as another principal organ.
6. The above are the most important objectives of UN to achieve the fundamental freedoms of human beings across the globe. According to Article. 7 the UN will have six principal organs as discussed above. The function of all the organs is to carry out the duties towards the nation-states, which includes the promotion of human rights as their principal duty.
7. If any country disobeys the mandate, especially in the promotion and protection of human rights, or if any country is under threat from another country, the Security Council is empowered to take all necessary steps including even to declare a war to achieve peace and security, which includes the promotion and protection of human rights. (Article 51)
8. Apart from the above, in accordance with Article 55, the Security Council may direct the regional organizations (like European Union, SAARC etc., these organizations are established by member states of the UN to settle their internal differences or to promote their relations that are specific to their region only). The aim of these organizations is to assist the UN and to achieve the economic, social, cultural aspects and fundamental freedoms of each region quickly and to resolve the differences between them at the regional level.

Universal Declaration of Human Rights: Technical Background

Mrs. Eleanor Roosevelt, the wife of Former US President looking at the Declaration as one of the chief Architect and Chairperson of the Drafting Committee of the UDHR.

After the establishment of the United Nations, in order to discharge its commitment for the promotion of Human rights it has established a small committee of nine members on February 15, 1946 to take steps for the preparation of an International Bill of Human Rights.



In April that year, Mrs. Roosevelt was appointed as its chairperson. Immediately, after the constitution, the committee had its preliminary meeting and suggested for the increase of the members, which was increased to eighteen. (The representatives of the following countries were appointed. They were Australia, Belgium, Byelorussia of Soviet Socialist Republic, Chile, China, Egypt, France, India, Iran, Lebanon, Panama, Philippines, United Kingdom, United States, Union of Soviet Socialist Republics, Uruguay, and Yugoslavia). On June 21, 1946, the Economic and Social Council framed the terms of reference on which the committee needed to work for the drafting of the Universal Declaration.

After the terms of reference to prepare a universal text for the promotion and protection of human rights, the committee later converted into the Commission on Human Rights, which functioned till 2006. This was later converted into a permanent inter governmental body known as Human Rights Council, in 2006 by the General Assembly. At present, the strength of the council is 47 states.

The Commission on Human Rights after deliberations appointed, Mr. John Peters Humphrey of Canada as the drafting committee chairman. John Humphrey prepared the first draft of the universal text. After that Mr. Rene Cassin, a French Professor of Law and Judge prepared the final version of the Universal Declaration of Human Rights [UDHR] with 30 Articles on the model of the Napoleon code. In 1968, he received the Noble Peace Prize for drafting the UDHR.

After the final version of the Draft, the General Assembly had finally adopted the Universal Declaration of Human Rights on December 10, 1948. Since then, December 10 is celebrated as Human Rights day to mark the Universal Declaration and the Fundamental Freedoms of human beings, which were recognized universally without any discrimination as to race, religion, sex, language and culture. However, since the declaration has no legal validity and binding nature on the states under international law, the UN asked the Commission to take further steps to convert it into two separate legal texts. Further, the Declaration being a mixture of both Civil and Political Rights; Economic, Social and Cultural rights in one single text, it would be difficult for the states to implement them.

On this suggestion, the Commission and the various committees after a considerable laborious work finally prepared the blue print of two texts. These are titled as Covenant on Economic, Social and Cultural Rights and Covenant on Civil and Political Rights, which have been adopted in 1966 and came into force in 1976. The First covenant has been ratified by 160 states, and 167 (till July 2011) ratified the

Second one. Later both the covenants have been added with additional protocols.

The Civil and Political Rights are referred to as justiciable rights, which are equivalent to the Fundamental Rights of the Constitution of India. The Economic, Social and Cultural rights are referred to as Non-Justiciable rights, and are only directives to the states which need to be promoted and implemented depending upon various factors (these are comparable to the Directive Principles of State Policy as framed by the Constitution which are directives to the State. These rights normally, can't be challenged in a court of law for their non-implementation. However, in the recent past, at least more than two decades, the Supreme Court of India in no uncertain terms made it clear through a number of judgments; if the non-justiciable rights have a substantive bearing on the enjoyment of fundamental rights, their non-implementation can be challenged).

The Covenant on Economic, Social, and Cultural Rights has an optional Protocol adopted in 2008. This protocol allows individuals to complain to the International Human Rights Mechanism of the UN for the non-implementation of the provisions of the Charter by the States parties. This is a historic Protocol. For the first time, it has permitted the individuals to complain against their states, even in the case of non-implementation of the provisions of the non-justiciable rights, which are addressed only to States. The complaint may be made to UN High Commissioner on Human Rights, only after the exhaustion of local remedies including the highest court's judgments. The protocol is signed by 36 states, and ratified by 3 states. This has not yet entered into force. Since this is a radical Protocol, certainly it will take time for states to accept their responsibility to discharge towards their people.

The Covenant on Civil and Political Rights has two protocols. The first one was adopted in 1966 and came into force in 1976. This protocol guarantees to the individual citizens to complain to the UN any violation of their civil and political rights by their state, after completing all the formalities and exhausting the remedies including the decision of the Supreme Court. (This right is guaranteed to the people of those countries, which ratified the Protocol. Government of India has not yet ratified; the Indian citizens cannot make any complaint) It has been ratified by 114 fourteen states till July 2011.

The Second Protocol was adopted in 1989 and came into force in 1991. It received 73 ratifications by states parties as on July 2011. This Protocol abolishes death penalty as a deterrent criminal punishment. Government of India is not a party to this protocol.

Significance of the UDHR

The Charter of United Nations aim is to protect the Human Rights and freedoms of the individuals at the International level. In order to implement the mandate of the States, the UN adopted the Universal Declaration of Human Rights. The Declaration is nothing but an extension of the ideology of what states parties have conceived in the Charter.

- The adherence to the Declaration in true spirit will bring peace and security.
- The Declaration with its non-binding nature has received universal recognition without any exception and accepted by the whole international community.
- All the states - even the communist countries (like former USSR, former Yugoslavia) - which were skeptical in the beginning, gradually realized the significance and started defending the declaration.
- The regular reference to the Declaration and the development of the provisions later crystallized into Covenant on Economic, Social and Cultural Rights, Covenant on Civil and Political Rights, and the adoption of independent texts on various aspects of human rights. All these texts conferred the status on the declaration as a part of customary international law.
- The Declaration became an extension of the Charter of the United Nations. On Several Occasions, the various organs of the UN including the Security Council and the General Assembly quoted its provisions in a number of resolutions and documents.
- The World Conference on Human Rights held at Vienna in 1993 made references to the UDHR and paid its tributes to it.
- The States parties (especially the developing states, several times made a mention of their rights and the rights of their people in various areas of cooperation and concession of varied aspects of law by the developed states) advanced their claims basing on the provisions of the Declaration.
- The International Court of Justice and the municipal courts (especially the highest court of a country) in a number of cases made significant references to UDHR in their decisions, led for wide judicial recognition.
- In 1978 on its 30th anniversary, 84 States paid tributes to the Declaration in the Teheran conference of Human Rights.

- As a mark of respect to the declaration and its principles, the UN crystallized its millennium goals basing on the unfulfilled dreams of it. These goals will drive the states to discharge their responsibilities to accomplish the standards they themselves set in the declaration.
- The extensive recognition and respect given to the declaration universally, and celebration of December 10 every year by the World Community led scholars to term it as the Magna Carta of the World, in upholding the rights and fundamental liberties of the individuals.

Analysis of the Declaration:

The declaration contains a preamble and 30 Articles. The preamble specifies the objectives and the Articles deal with Civil and Political Rights, Economic, Social and Cultural Rights, while a few articles of this declaration deal with the duties to be performed by all agents (this includes the states to render their duties towards other states, to their people and minimum guarantees to the whole mankind wherever they reside. At the same time, impose legal and moral obligations on the society towards individual's vis-à-vis individuals towards society and international community). In other words, the declaration became the cornerstone of international law to achieve its basic aim and object of securing peace and security, the concept of one world and to make the world free from the fear of war.

This is evident from the fact that though international law gave birth to the concept of human rights only six decades ago, in the contemporary era, every branch of international law has an influence of human rights. Moreover, in crystallizing new norms to regulate the international relations of states, many a times they incorporate human rights as the basis. (This is further evident that this declaration, the only document officially translated by UN in more than 360 languages, to help people, to practice them easily.)

The continuous adherence and reference to the UDHR on par with the Charter of the United Nations by member states made it more than a legally binding document. Even new states who come into existence and become members of the UN, all of them without any exception have accepted the principles of the Declaration along with Charter as new members of the international community. The Declaration has paved the way for the independence of many countries in 60's and 70's.

Preamble of the Declaration

The Preamble of the Declaration states the spirit and significance of the Declaration. The picture conveys that if the mankind and its creators (namely, states) follow the Declaration in true spirit, it is easy to achieve peace, security through friendship and prosper together. This spirit has been stated in the Declaration, and is explained hereunder in a simple and common language for easy understanding with some pictures to signify the importance of oneness along with commentary to each article.



Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

The mankind as a whole, which includes the states and the international community, have the responsibility at all times to promote the natural and inseparable personality to uphold the self –respect of every individual without any difference. The friendly behavior of mankind alone is the basis for upholding the freedom, justice, and peace on the earth.

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

The negligence of people, disrespect to the rights of others and the self interest of the emperors from ancient to modern times have resulted in a number of wars. This type of behavior of few individuals as rulers led to a number of revolutions across the world, and mankind went through a number of difficulties, which ultimately developed fear in the minds of common man of their existence. They extended respect and support to their rulers out of fear than with love and affection. This had brought in distance between the rulers and the people. The tyrannical ambitions of the rulers, finally led to the evolution of natural rights (see Unit II), which in turn resulted in establishing democracy and human rights. The ambition of few vested interests relegated the freedoms of individual and resulted in two World Wars. To halt the inimical attitude of few individuals, the world leaders have realized that peace and security to mankind could be established only by guaranteeing equal rights to express

their opinions on any issue freely without fear, and the needs of common man be met only by guaranteeing human rights without any discrimination.

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human right should be protected by the rule of law.

As discussed above, if no person is forced to act against his or her will, the scope for coups or wars and social movements will not be there in the World. In other words, even in a democratic set up, if any organ of the state or its rulers is not discharging in their legal duties and show any tendency towards favoritism or disrespect the rights of people, social movements are bound to develop. (For example, the uneven development of a country, corruption etc., led for a number of social movements across the world).

Whereas it is essential to promote the development of friendly relations between nations.

It is the responsibility of every country to develop harmonious relationship with each other. To achieve this fundamental principle, states laid their faith and emphasis on international law to regulate their relations in a peaceful manner. The states too have duties to respect the territorial integrity, sovereignty of nations and its people without resorting to any kind of hatred or discrimination on grounds of race, religion, sex, or language. The harmonious relationship between the states at the international level only could lead to establish peace and security. With that endurance to bring in peace and security to mankind, the states have established the UN, and to resolve their differences in a friendly manner by employing legally permissible methods. (Normally under international law, the disputes or differences are resolved by employing any one or all of the methods. These are Negotiation, Mediation, Conciliation, Arbitration or Judicial Settlement or by war as a last alternative).

In a plain reading, the rights of the individuals and their free exercise, depends on the friendly relations between nation-states. It is the duty of states to be friendly to settle their differences and to live in peace, to bloom the personal liberties of mankind. To achieve this every year, September 21 is celebrated as an international day of peace by states popularly known as World Peace Day.



As a mark of respect to celebrate the peace day, a peace bell is rung every year at the Head Quarters of the United Nations in New York. The bell is cast of coins donated by children of all continents with an inscription on its sides read as “Long Live absolute World Peace.” The great cricket star of India, Sachin Tendulkar had donated the bell. For the donation of this bell, Tendulkar is referred to as the reminder of human cost of war. Many a times the UN and its organs, and even NGO's around the world choose famous personalities in the World and appoint them as Ambassadors of peace to promote the ideals of one world and one humanity through the prism of human rights.

Whereas the people of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom. Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms.

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.

Now therefore, The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for their rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories and their jurisdiction.

The world leaders have given the name United Nations to the international organization is a reaffirmation of their concern for peace, friendship, to live with dignity and to promote peace and security. The United Nations represents togetherness of the people across the world in spite of differences in language, culture and other issues that exist between the West and the East. The main concern and idea of the leaders by establishing an organization is to make it a true global organization symbolizing the spirit of mankind as a single entity, without any difference whatsoever it may be. Accordingly, the UN works to achieve the objectives of the preamble of the Declaration in order to end the miseries of various disadvantaged cross section of people like women, minorities, children, disabled, etc., to promote the concept of oneness among all. (For the various activities of the UN visit, the UN web site

<http://www.un.org/wotks>. In the pages of UN, one could see the various areas wherein the UN involved itself through people across the globe to wipe out the tears of millions of people on various fronts and to bring them to the main stream of life of the international and national societies. The money spent on all these activities is only the annual contribution of the member states shows the determination that the states have to develop the better standards of life).



The pictures represent the Eight significant Millennium Goals adopted at the end of the Millennium in 2000 by the United Nations and Members of UN made a pledge to achieve them. The eight pictures represent eight objectives which need to be achieved by the UN by engaging people across the world. For this

purpose it conducts a number of programmes and offers a variety of internships to young students and offers projects for research in every area. Infact the Science and Technology field has a broad scope in UN to associate themselves to achieve the objectives of the UN. In one sentence, everyone in their field could contribute for a better standard of life and be associated with the UN. The pictures below and the symbols stand for the goals which are stated:

Goal: 1 Eradicate Extreme Hunger and Poverty



Goal: 2 Achieve Universal Primary Education



Goal: 3 Promote Gender Equality and Women Empowerment



Goal: 4 Reduce Child Mortality



Goal: 5 Improve Maternal Health



Goal: 6 Combat HIV/AIDS, Malaria and other diseases



Goal: 7 Ensure Environmental Sustainability



Goal: 8 Develop Global partnerships for Development



The above eight are the official goals and pictures developed by the UN. To monitor the progress of each Goal and the steps to be taken for their betterment, the UN recently entered into an agreement with technology giant Google as a partner to assist the UN.

To achieve the objectives of the Charter of the United Nations, the General Assembly adopted the Declaration. After the adoption of this declaration and to live up to its expectations, international law has undergone a number of changes in its approach towards the rights of the states and extending protection to the individuals. The progressive codification of International Law of Human Rights, the number of conventions, declarations, Covenants, conferences and protocols have had a significant impact on the approach of the States and the International Organizations including International Monetary Fund and World Bank. However, as there are differences and self interests that we human beings are having, the states do have their own policy perspective to protect and develop their own people. To end all kinds of discrimination, the UN works to achieve them fully as stated in the Charter and the Declaration through the principles of international law.

Article 1 (Free and Equal in Dignity and Right) :

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

A plain reading of the text indicates that all the persons born have equal rights and are entitled to dignity and respect without any distinction. However, from a strict socio-legal perspective, it needs an analytical perspective.

From the established political philosophy, all persons born in any society are equal in all respects in the eyes of law. No discrimination is permissible to one another

in a society and they need to ensure all types of rights and freedoms, both in the international and national legal scenario. However, a close examination of the provisions of the Article amply makes it clear, that due to economic, social and cultural conditions, the concept of equality has its own restrictions, which are legitimate in their exercise. Freedom also has its own limitations. For example, in the Indian context, all persons above 18 years of age are entitled to exercise their franchise or right to vote without any limitations. There should not be any restrictions on the exercise of this right. This may be symbolized as political equality that is recognized legally, but depending on their economic situation, the life style of people may vary.

It is the responsibility of the state to extend concession to the needy sections of people of the polity in order to bring them on par with other developed sections in terms of socio, economic and cultural perspective. The Millennium goals of the UN also try to achieve the minimum economic equality and strive to eliminate poverty. This means, though there exist differences on economic, social, and cultural front, in the eye of law all the citizens are equal and for the state the potential of every individual is the prime concern. The concept of gender equality is also included in this article, which places men and women on an equal footing in all walks of life.

Further, the issue of equality does not mean that the mental and physical capacities of all the people are one and the same. The development of personality depends upon the environment that a person grew up and the conditions in which they live. Mental maturity and the intellectual capacities mainly depend upon the surroundings in which they live in and the cultural perspectives that they adopt. It is the duty of state, and the international community to provide the basic necessary facilities to grow in a friendly atmosphere and strive to increase the earning capacities of each individual. In this regard, it is the responsibility of every individual of the society to contribute their might for the betterment of all sections of the people. Hence, depending on the socio-economic, cultural conditions, a state may frame its policy

formulations according to the needs of every section of people of the society.



The picture brings forth the idea that through love and affection alone one can help to achieve equality. In spite of economic, social, psychological, physical disabilities of a person, they need to be cared for by the society, and have to be treated with love and respect to enable them to fully develop their personality. This being the objective, the emphasis of the

Article is that, every individual has a duty to respect the dignity and rights of every other person for the progressive development and realization of human rights, which is the main thrust of International Law of Human Rights.

Article 2 (Prohibition of discrimination):

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it, be independent, trust, non-self governing or under any other limitation of sovereignty.



From the above pictures and the provisions of the Article, no person has lesser rights, irrespective of their status for any reason whatsoever may be. This means whether a person belongs to a developed, developing, under developed, less developed or land locked states (a state without a sea border like Nepal or Bhutan) in international law would be treated equally. Further, in international law different types of states are recognized, namely, Micro, Macro, Non-Self Governing territories, dependent territories; Insurgent and belligerent states (movements where people's organizations at times control a territory and defy the sovereignty or people fighting for establishing a new country so on and so forth. This Article's aim is whatever the type of government or territory, whether it may be Europe, America, Asia, or Africa, black or white, child, young person, women, or man, disabled, minorities, all are equal and have equal rights. In the application of law, the international community or a state cannot show any kind of discrimination. Further, due to internal problems or for any other reason, a person flees from his country to take shelter in another country referred as refugee also cannot be shown any discrimination by such country, where in they seek shelter.

The differences on any of the grounds mentioned in the Article such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, normally evolves because of lack of basic understanding of law and moral values of a society. Due to lack of knowledge and understanding of the basic tenets of law, justice, equality, dignity, liberty, ethical, moral, values and rights (as discussed in units I & II), makes one to relegate the rights to a secondary position. This inturn, will bring in all the differences and miseries. In such cases, it is the duty of the international community to provide the mechanism to augment the values, and extend the necessary concessions to the extent necessary for their upliftment.

Article 3 (Right to Life, Liberty, and Security):

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



The Article is the briefest one in the entire Declaration. However, it is the most important one among all the rights. This implies that the international community and the states in their constitutions have to take the responsibility to provide a life wherein the people meet their minimum requirements of life. These are especially, food, clothing and shelter. These are the basic requirements to lead a life and able to exercise their rights freely. The UN in order to provide these necessities adopted a number of steps and legal documents requesting the states to follow suit. Nationally, to provide such equality, the Great Son of India, namely, Dr. Babasaheb Ambedkar has penned the provisions of the constitution to bring social harmony. A duty has been casted on the state to discharge its responsibility to provide facilities to lead a life free from all infirmities. This provision is continuously interpreted by the Supreme Court of India (Article 21 which is similar to the Article 3 of UDHR) with progressive outlook and expanded the fundamental rights in a number of cases.

Extending the provisions of the Article, the UN adopted the Protocol II to Civil and Political rights abolishing death penalty. The ideology of the UN behind the adoption of this protocol is that since a person is born, no one including law has a right to take away the life of an individual under no circumstances. Even if a person committed a grave offense, the punishment may be extended to life time imprisonment rather than taking away the life of a person. Another important objective of the article is that, in case if it comes to knowledge of a court subsequently that a sentenced person is

innocent, then there won't be any chance to bring back the life of the person. Accordingly, death penalty be abolished even in the rarest of rarer cases. With this objective, to stop politics and to try the offences of even former rulers of a country. UN has adopted the Rome Statute establishing the International Criminal Court to have an independent, impartial trial of the person without any kind of illegal motives of states at the cost of life, liberty and security.

Further in order to achieve life, liberty, and security of person at all times, at the national level the UN requested the states to establish National Human Rights Commissions in every country to protect them from the violations of human rights..

Article 4 (Prohibition of Slavery):

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

In human history, slavery occupies a special role. It was in existence from ancient to modern times. Even in the era of globalization and information technology, of contemporary era, slavery is in existence and is in practice in different forms. The main forms of slavery are chattel slavery, bonded labour, beggar, human trafficking, and forced labour.



Chattel Slavery means, human beings are treated as animals and sold in a market like goods. Once a person buys another person, as owner, such person will have all the rights, and the purchased person had to undertake all the jobs entrusted by the purchaser.

Bonded Labour : If any person or his family is having any debt to any rich person and unable to repay such debt, the entire family works for rich man without any wages to repay their debt.



Human Trafficking: It means transporting human beings (especially women, children) from one country to another country or one place to another place for exploiting their labour and body for various purposes.



Forced Labour: According to International Labour Organisation's (ILO) convention, on Forced Labour, 1932, any work or service, which is extracted from any person under the threat of penalty, and for extracting the work without voluntary consent of such person constitutes forced labour. According to statistics of ILO there are about over 12 million people working as forced labour, in the world.



According to the article prostitution, captivity of children, child soldiers, selling women and children due to abject poverty etc, also constitute as the modern means of forced labour and slavery.

In order to prevent various forms of forced labour and slavery, in 1926 the League of Nations (the predecessor organisation of the United Nations) adopted a Convention on prevention of Slavery. Expanding its provisions, the UN in 1956 adopted a supplementary Convention to it, including the modern means or forms of practices, which may lead to slavery. The UN apart from the conventions on slavery adopted a number of other conventions on prostitution, child trafficking, abduction, etc, in order to prevent any kind of deprivation of life, liberty, and security to human person in any form. The UN declared 2nd December, of every year as the anti-Slavery day. International law strictly prohibits states to practice any such practice that leads to slavery of any kind. Articles 23 & 24 of the Constitution of India prohibits all types of slavery and human trafficking in India.

This Article again highlights that until and unless the mankind practices sincerely the spirit of common brotherhood in its fullest extent, whatever number of legal measures taken at the international and national levels, they remain only on paper, and the rights of millions of individuals are nullified. Hence, it is the duty of mankind, not to think of one's rights and comfort alone, but to think of the rights of others and to extend protection to the extent possible to prevent any act that may lead to slavery or deprivation of life and liberty of others.

Article 5 (Prohibition of Torture):

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

According to the UN Convention on torture and other inhuman criminal degrading treatment 1984, torture means, *any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*

Torture is another important aspect in the violation of one's human rights. This may be inflicted in various ways and means. In this, the punishment is employed by various methods. The methods may be physical, psychological, mental, etc. They are employed either to get information from a person, or to harass a person as revenge by a powerful person against a weak person. At times, even for sadistic pleasure or for no reason also it is employed. Many a times this is employed by Law enforcing agencies against the criminals or an accused to get information in the investigation of a crime. Many a times men employee torture against women.

Torture is prohibited by international law of human rights. The United Nations on December 10, 1984, adopted a Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment banning its practice in any form. The Vienna Declaration and Programme of Action 1993, otherwise referred to as the World Congress of Human Rights condemned torture in unequivocal terms.

Cruel, inhuman or degrading treatment constitutes as a form of torture. This includes to cover a particular situation depending on the type of punishment that is inflicted. For example : Corporal punishment, interment in dark cells, restraining the movement of a person by keeping him in chains, employing any method to create fear in the person within visible form of methods, use of drugs on prisoners, castration or practices, genital mutilation, depriving the basic necessities, especially depriving food and water, solitary confinement, or any other form of methods that are employed against a individual or group of persons, constitutes as torture.

To prevent torture, cruel, inhuman, or degrading treatment, the UN constituted a committee of ten experts elected by the member states. The committee monitors the implementation of the Convention and makes recommendations to be followed by the states. The summary of observations and recommendations are regularly submitted to the General Assembly. To prevent any kind of prohibitory activities, and blatant acts of the states towards their citizens, in recent times, international agencies like the World Bank and International Monetary Fund incorporated practices of torture as one of the grounds to refuse loans to countries. India, enacted legislations to prevent torture and consider it as a criminal offence under sections 498 A of IPC.

Article 6 (Right to recognition as person before the law):

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



This means, any person irrespective of their economic, political, social or cultural status has human rights that are recognized universally. Accordingly, a citizen belongs to every country needs to be treated on equal basis at least for the enjoyment of basic minimum rights. A non-citizen of a country also has certain fundamental rights during their stay in another country and no deprivation is permissible.

For example., X a citizen of India travels to England on any purpose, during his travel across various countries, X has to be treated with utmost respect and dignity to his personality, and be permitted to enjoy life and liberty, according to the law of the land. Refugees, migrant workers, and non-citizens of a country or physically, mentally infirmed people (disabled) have to be protected. The responsibility lies on the individuals and the society also. No deprivation of life and liberty is permissible under any circumstances. The Charter of the United Nations clearly states that we the people of the United Nations, which means, people of the world as natural persons are same and equal in all respects in the eye of law. The UNESCO and other organs of the UN in regular intervals train the personnel of various states and suggest the ways and means to prevent any kind of violation.

In order to achieve equality before law, a state is entitled to extend any concession to any group of people depending on various factors. At the same time, people who are under a protective umbrella of state also need to remember that their protection or concessions may be withdrawn by the state at any time, if in its opinion the purposes for which the concessions extended to any group of people are achieved. Accordingly,

to bridge the gap between developed and developing states, a number of concessions are granted in various areas in their relations with each other.

However, a number of derogatory practices are reported regularly, around the world. Any derogatory practice that take's place against any individal or group of persons in any country is highly condemnable. The sum and substance of the Article is to inform the individuals that every one of us have to exercise their rights with responsibility to promote and respect the equality, dignity, life and liberty of every individual.

Article 7 (Equality before the law) :

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

This Article is an extension of Articles 2 and 6. According to this Article, under no circumstances, whatever may be the status of a person, all are equal in the eye of law. At times, in order to promote the rights of certain weaker sections or vulnerable groups like women, children, disabled, minorities or people belonging to various social backward sections privileges are extended for their development as a basis for their protection development by the law of the land of a country, cannot be considered as unequal.

This Article corresponds to article 14 of the Indian Constitution, which has inculcated the principle of Equality. However, due to lack of proper understanding of the spirit of common brotherhood of the world, or relegating their ethical and moral duties temporarily people across the world practice a number of derogatory practices against each other, to protect their own interests at the cost of the life and liberty of others. This type of illegal motives many a time leads to unnecessary frictions among individuals and result in as obstacles for development.

The indirect caution of the Article is that no one is to be treated unequal in the eye of law. This is the duty of the states to implement the spirit of international law and the Charter of the United Nations, which they themselves adopted and promised to fulfill. Along with the States, we the people of the United Nations too have the responsibility to achieve the common brotherhood, spirit of international law and human rights in true spirit, as partners of a state.

Article 8 (Right to an effective remedy) :

Every one has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights guaranteed to him by the constitution or law.

This Article has to be read, in conjunction with the previous two Articles. A very important word of these articles is "every one" Accordingly no distinction be made by a state between citizens, foreigners, or stateless persons in the enforcement of their rights as a person before law. The aim of this article is to provide a remedy for any person through domestic courts in case of violation of their constitutional or legal rights. In such cases a remedy may be claimed only under domestic law of that country but not under the Universal Declaration.

In a similar fashion, if any crime committed by any body which constitutes as a crime under International law, International tribunals need to deal with such criminals. However, since there was no such mechanism available to try the crimes of International criminals (such as former rulers, International criminals, or terrorists), states used to constitute adhoc tribunals to try their offences many a times, these tribunals used to be partial in their approach. In order to prevent such abuses, the UN established the International Criminal Court in 2002 at The Hague, The Netherlands. A number of states including India and USA etc. are not parties to this court's Jurisdiction. Further, in 2005 in the General Assembly adopted a declaration with a set of principles and guidelines to be followed by states to protect the human rights of International Criminals too.

Though a good number of states are yet to become parties to the Rome Statute, it is expected that with the help of the States, the steps taken by UN, the victims will now find a place of justice in upholding their rights.

The International Criminal Court, The Hague, The Netherlands.



Article 9 (Prohibition of Arbitrary Arrest) :

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

This is the first Article followed by the subsequent two articles in the declaration, guaranteeing the life and liberty of an individual from the criminal law excesses that are often committed by the executive authorities of a country. According to the provision of the article, no person can be arrested on suspicion, or to keep him in jail, or to export a person to an undisclosed destination, without the knowledge of judiciary.

This is the general rule of international law and need to be obeyed by the states parties without any deviation.

This Article guarantee an individual's freedom from an arbitrary arrest, detentaon or transport to an undisclosed destination by law enforcing agencies on a mere suspicion in exercies of their criminal law powers.



Arbitrary Arrest



Detention



Exile (Jail in Andaman and Nicobar Islands)

Preventive detention means, taking a person into police custody to prevent him from doing a crime. Many a times, even to prevent the exercise of democratic rights, police take people into custody on the name of law and order. Preventive detention legally means detention of a person without trial and conviction by a court, but on the suspicion in the mind of the executive of any act of crime. for example. during the freedom struggle, the British government used to arrest people on flimsy grounds and detain them for years together without a trial; sometimes even used to send them to undisclosed destination as exile.

Preventive detention is a common feature in many democracies including the USA, Britain, and Canada. However, in these countries it is exercised only during war time but not in peace time. In India, the Constitution of India has envisaged such a situation for reasons of security, maintenance of peace and good order and or to maintain supplies and services essential to the community. In India, the Legislature is empowered to enact a legislation on preventive detention authorizing the executive to take necessary steps. However, many a times, the abuse of power by law enforcing agencies constitutes as a violation of human rights. The abuse of power by law enforcing agencies lead to a boiling point, where in a number of undertrial accused persons are languishing in Jails for years together without a judicial remedy. Taking this situation into consideration, the Supreme Court of India laid down number of guidelines from time to time to be followed by the law enforcing authorities to prevent

the abuse of human rights of innocent people. (D.K. Basu V. State of West Bengal, AIR 1997 SC610., Subesing V. State Haryana, AIR 2006SC 117, Ramlila Maidan, V. Home Secretary, MANU/SC/0131,2012, 3rd Report of National Police Commission.)



This Article impose an obligation on the states, and the civil societies across the world to prevent any type of misuse of powers especially in detention. Detention literally and physically leads to violation of a number of human rights such as right to freedom of movement, speech, life and liberty etc. Guantanamo Bay shown in the picture was converted as a Jail in 2002 by the US Government to exile and punish the war prisoners of Afghanistan and Iraq. The treatment meted out by the prisoners was deplorable from the prespective of human rights. The situation was comparable to that of the practice adopted by the British Government to many Indians in the Kalapani Jail in Andaman & Nicobar Islands during the freedom struggle.

Article 10 (Right to a Fair Trial) :

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



According to this Article in any type of disputes (both civil and criminal), a person has every right to defend his case through a court of law or any other legal means that has been prevailed in a country. The misuse of the procedures established by many states, especially in the developed countries with respect to war crimes, as discussed above in Article 9, the UN has taken the final call for the establishment of International Criminal Court.

In India, due to lack of awareness among the various sections of society about the legal nuances and the adequate knowledge of constitution, the law enforcing authorities interfere in civil dispute and try to settle them acting as mediators. Many a times, this constitutes as violation of human rights. For example, especially in the villages across the country, the rich and powerful people often with the help of law enforcing authorities try to settle their disputes in their favour preventing the poor people from seeking judicial help. To prevent such situations, the Judiciary in a number of dicisions condemned the procedures adopted by the law enforcing authorities, and the practices adopted by the prosecution in the examination of a witness in a case. Sadananda Bai, V. C.N. Ravi and ors W.P.(e) No 17400 of 2008, j

lakshamma and Anr V. Lakhmi @ land Aru v commisner of police and ors MANU/AP/1189/2004.

Accordingly, the Judiciary in a number of dicisions from time to time emphasized that the provisions of the article be read with the constitutional dictums. It held that both in Criminal and Civil cases, the cases have to be heard by competent judicial authority and dispose of the cases at the earliest possible time. Considering the amount of delay in criminal cases, it ordered the lower courts to dispose of the cases in an expeditious manner in order to augment the fundamental human rights of the individuals.

Article 11 (Presumption of Innocence and no retroactive application of Penal Laws) :

- 1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has all the guarantees necessary for his defence.*
- 2. No one shall be held guilty of any penal offence because of any act or omission of any act, which did not constitute a penal offence, under national, or international law, at the time when it was committed. No heavy penalty is to impose, than the one that was applicable at the time the penal offence was committed.*



*Nuremberg Trial After
Second World War*

The picture depicts the court scene of the International Tribunal constituted by the victorious powers in 1945 (Allied powers USA, UK and others) of the second world war to punish (Axis powers, defeated powers in the war especially that of Germany and Japan) the architects of war including Adolf Hitler for their crimes in violating peace and security of mankind. This was the first trial in the history of International law, wherein it was held that individuals may be punishable under international law, for the crimes committed against humanity. With this judgment, individuals became a subject and object of international law, though states being the main subjects of international law. The tribunal's establishment proved the point beyond doubt that any guilty person, occupying any high position to be punished legally by a competent court.

The Tokyo Tribunal was constituted in 1946 to try the war crimes of several people belonging to Japan for their alleged crimes during the War period. The dissenting opinion of the great Indian Jurist Radhabinod Pal has had a great impact



The Famous Tokyo Tribunal

on the development of human rights in the modern world, especially on the development of International humanitarian law (otherwise known as the International law of war to be practiced during the period of war and after the war with respect to the treatment of war criminals by the victorious powers). The constitution of these two tribunals led for the establishment of a number of ad hoc courts in modern times especially in Rwanda, Yugoslavia etc. Taking into consideration of constitution of such ad hoc tribunals and the deplorable practices adopted by them, led the UN to establish a permanent International Criminal Court to stop constitution of such tribunals by the nation-states. These developments have a great impact on the development of international law of crimes or international criminal law.

The Article mainly advances four important principles. They are:

- (a) **The presumption of innocence:** This principle advocates that every person arrested on whatsoever reason of suspicion or charged with any criminal offence including the gravest offence of murder, shall not be treated as guilty of the charged offence until and unless established and proved by a court of law. This is the reason why, in many countries there exist a provision to release a person on some legal conditions (popularly known as bail) from the custody in order to enable the person to exercise his or her human rights or personal liberties pending trial.
- (b) **The right to a defence:** The word guarantee in the Article means, that any person charged with any offence has freedom to defend the case until the crime is proved and finalized by the highest court of a country. This is the reason why appeals are made from lower court to Supreme Court of a country to exhaust all available legal remedies. In case, if the person charged is a poor person and unable to defend the case personally, it is the duty of state to provide legal representation to the fullest extent to defend the case of such individual to guarantee the human rights or fundamental rights as per the provisions of the constitution of a country.
- (c) **The right to a public hearing:** There is another important principle that no person charged with a criminal offence is punishable without a proper trial by a competent court of law. The principle has been developed on the legal adage

“justice should not only be done but should be seen to be done.” If any inquiry or trial is conducted in secret, there may be a possibility to upset the apple cart of justice. This may lead to violation of human rights of the accused without giving a chance to the person, to prove his innocence or without being examined or corroboration of evidence.

- (d) **Non-retroactivity of Law:** This is another important principle to uphold the promotion and protection of human rights. According to this principle, in no circumstances a person shall be punished except by the law in force at the time of commission of the crime. If any new law is, introduced increasing the quantum of punishment after the period of trial shall not be applicable to the person charged and punished for the proven crime.
- (e) **Double Jeopardy:** Though not stated in the Article explicitly, it serves as an automatic principle of human rights. This principle legally protects a person not to be tried or punished twice for the same offence. This is a constitutional guarantee to every individual. This being a procedural part and guaranteed by every nation through constitution or by the provisions of a legislative enactment. It need to be adhered strictly without any deviance, by all the countries.

Article 12 (Right to Privacy) :

No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, or to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

The word privacy derived from the Latin word “privatus” which means separated from others. In other words, a person has the full freedom to live the way he or she likes to live and without the interference of any body. Its origin is linked to the theory of Natural law of rights, wherein the Individual is free to live the way he likes to be. However, it should not affect on the rights of others. Basing on the common law principle, the individual has full protection in person and property. Samuel D. Warren (a Barrister), and Louis.d. Brandeis (former Judge of the Supreme Court of America) in their Article in the Harvard Law Review, in 1890, introduced for the first time, the legal concept of privacy in the American context. This Article is today considered as the maiden piece in the development of law of privacy. Basing on this research work number of changes have taken place in the legal system of America, which led for the fourth amendment of the constitution recognising privacy as a fundamental right.

Alan Westin in his book Privacy and Freedom (1968) defines the right to privacy

as “Each individual is continually engaged in a personal adjustment process in which he balances, the desire for privacy with the desire for disclosure, and communication for himself to others in light of the environmental conditions and social norms set by the society in which he lives”.

In the contemporary era of rapid expansion of science and technology (part of cultural rights) privacy became an important aspect . Today privacy covers a number of areas including home, family honour and reputation. The implementation and protection of this right is very important from a legal angle. In the Indian context, the Constitution of India has not explicitly defined the right. However extending the provisions of Article 21 of the Constitution, the Supreme Court of India enlisted it as a part and parcel of right to life and liberty. In view of the intrusion of various players through information technology into the data or tapping telephone conversations, wire tapping etc., to match with many advanced countries, the Government of India is also contemplating to bring in a new legislation guaranteeing right to privacy.

According to this Article, every individual whose information is sought by anybody without the legal permission of a person, it violates the right to life, liberty, and freedom of dignity. Accordingly, the Right to Information Act section 8 recognized privacy as an important aspect, which prevents information of personal nature of a person.

Article 13 (Freedom of Movement, exit, and Re-entry) :

- 1. Everyone has the right to freedom of movement and residence within the borders of each state.*
- 2. Everyone has the right to leave any country including his own and to return to his country.*
- 3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law which are necessary to protect national security, public order, public health or morals or the rights and freedoms of others and are consistent with the other rights recognized.*
- 4. No one shall be arbitrarily deprived of the right to enter his own country.*

The provisions of this Article (para 3 and 4) were further expanded by International Covenant on Civil and Political rights under Article 12.

According to the provisions of the Article, every individual has a right to move freely across the borders of a country and to settle down wherever he likes. No one can

object the movement of a person on any ground whatsoever, especially on the basis of sex, religion, language, etc. This right confers on the individual to move from one country to another country freely subject to the provisions of law of that country and international law. It means, even if a person leaves a country temporarily, one has the right to return as long the person has not given up or relinquished his nationality.



The Article clearly specifies that it is not an absolute right. It is subject to regulation by law. In the case of emergency or internal strife or for any reason a state may prohibit the entry of people to a particular place. This certainly constitutes a deprivation of the right. However, due to circumstances beyond the control on grounds of security, and to protect the interests of people of the region, a state may resort to such steps.

Article 14 (Right to Asylum) :

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



Asylum is an ancient juridical notion, which has been developed to expel a subject or group of subjects for their alleged violations of law of the land. According to the general principles of international law, any non-national of a country enters into another country either legally or illegally to seek shelter temporarily for any reason whatsoever it may be (the reasons may arise out of political, social, economical, or cultural or legal issues.) that arose in his own country, such shelter is referred to as asylum. It is the right of a state to grant permission to stay in its country or not. In the ancient and medieval periods this power was used by states in an indiscriminate manner. However, in the contemporary era, asylum is subject to regulation of a number of treaties, wherein the states are under an obligation to extend asylum to a person who seeks refugee in its territory. However, it cannot be demanded as a matter of right states being sovereigns, even after exhaustive legal regulations and the covenants on human rights, asylum is a most controversial subject, and the states still use it as their absolute discretionary power. To provide the benefits of this right, to

exercise freely, the UN is taking all possible steps to adopt a convention to regulate discretionary power of states. Accordingly even today it is nothing but the discretionary power of a state to accord asylum.

Clause 2 of the Article provides the power to a state not to grant or refuse asylum to persons who are criminals in a country, or persons who commit international crimes or violators of international human rights or commit breach of peace and security.

Article 15 (Right to Nationality) :

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



It is the aim of international law to establish the one world concept, wherein there will be only one state and the laws are universally applicable without any territorial boundaries, wherein we the people of the UN have one single nationality that is as a member of mankind. It being an utopian concept to establish one world and to whither away the idea of a state, nationality still

plays an important role. Nationality provides an identity and all kinds of legal protection to an individual at all times, whether residing in his own country or abroad. Here one has to note that citizenship used in some countries as a synonym to nationality. Strictly speaking, citizenship is not a synonym to nationality.



Life of Stateless persons

According to the general principles of international law, all persons are eligible to have a nationality or citizenship of a country in the world. This alone enables people to enjoy the guaranteed human rights. However, millions of people across the world are without nationality of any country (otherwise referred to as stateless persons in international law). Statelessness means a person not having any legal bond or protection of a state. Such people are exposed to a number of difficulties including the

denial of basic human rights of life, liberty, and equality. Many a times they are subject to target of various crimes by the state agencies, wherein they live as refugees. They may not get even basic necessary services like social security, education, health care etc. It is difficult to imagine such a kind of life. To prevent the situation the constant efforts of the UN resulted in adopting a convention in 1954 - Convention relating to the status of stateless persons. As of now, only around 65 states became parties to the convention. This convention guarantees the basic rights to stateless persons, and imposes obligations on the states parties to discharge their duties towards the protection and promotion of their human rights.

In 1963 taking into consideration of reducing the increasing number of stateless persons (refugees) it has adopted a Convention on the Reduction of Stateless Persons for which only 37 states are parties. Apart from this, the UN has a Convention on Refugees adopted in 1951. It has established an organ named as UN High Commissioner for Refugees. The UNHCR mostly looks after the issues of stateless persons and their needs. According to the available estimates, around 12-13 thousand million stateless persons are residing across the world.

Apart from above treaties, all the treaties, conventions and covenants on human rights dealing with general and specific rights (such as the Children rights Convention etc) all have reiterated their commitment to end statelessness.

Article 16 (Right to Marry and Family Life) :

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

This article prohibits all discriminatory and customary practices, which are illegal in the eye of law with respect to the institution of marriage. Though there exist a number of differences in the structure, patterns of family in the world, the main aim of the article is to protect the basic rights of individuals about their choice, and freedom to marry whomsoever they want, and the non-interference in the marital issues. Since the free and full consent raises a number of issues, the UN adopted a Convention on

the Consent to Marriage, Minimum Age for Marriage and Registration of Marriage adopted in 1962. According to provisions of the Convention, all types of marriages including inter caste, inter religious are permissible, once if the spouses agree to each other with full consent and knowing the consequences of such marriage depending on the societal conditions wherein they live.

According to the provisions of the article and the convention, same sex marriages, or live-in relationships are also permissible as a part of human right to life, liberty and equality. In some countries, the above types of marriages are well recognized. Judicial decisions in many countries, including India upheld such marriages as extending the protection of individual's freedom, liberty and privacy.

Article 17 (Right to Property) :

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

From ancient to modern times, one of the important aspects of man's life is property. In the long drawn battle for the freedom of individual across the world, property also constituted as a central issue. Accordingly, right to property has been recognised as an important right by the Declaration to lead a life with liberty and dignity in a free and fair manner. To guarantee the other freedoms especially right to life and liberty, right to property constitutes as one of the basic right.

In India, right to property was guaranteed as a fundamental right. However, through the 44th amendment to the constitution in 1978, right to property converted as a constitutional right from that of a fundamental right. By this change, it became feasible for the Government to acquire any private property for public purpose by paying lesser compensation than the market price to the landowners. The Supreme Court in *Radhye Shyam V Greater Nodia Corporation* in July 2011, held that no person could be deprived of his property, except by authority of law, and any law invoked for personal purposes, which are beyond doubt that land acquired is not for public purposes; such illegal motives of a state cannot take away a legal right. This ensures that even as a constitutional right, it safeguards the property of a person as a fundamental right.

Article 18 (Freedom of thought, conscience and religion) :

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



Freedom of thought, conscience, religion, or belief are the most essential fundamental freedoms after life, liberty, and equality. They cannot be suspended even in a state of emergency. Everyone has right to practice his own religion and observe the principles with faith, and belief without any interference of anybody including the state. This

implies, people are free to wear the clothes that are required by the religion to perform certain ceremonies or distinctive dress code that is prescribed by the religion. However, the advent of terrorist strikes led some countries (France started interfering with the freedom of Muslim women wearing a Burkha) and imposing fine. These acts of states constitute as violations to the freedom of the individuals in observing their religious or cultural faith.

The General Assembly in November 1981, adopted a resolution requesting states to restrain from all forms of intolerance and discrimination against religious faith and belief. In continuation of the resolution, the UN Human Rights Commission (now Human Rights Council) adopted a good number of resolutions and framed a number of principles to monitor the situation.

The Human Rights Council in 2010 adopted another resolution condemning all derogatory practices by states parties towards the religious freedom and belief and practices of individuals. It also reiterated the significance for the promotion of freedom of thought conscience and religion without any discrimination. However, to crystallize the provisions of the declaration and other legal documents, people learn to live with harmony and allow everyone to practice their faith. That alone would yield results and make it possible to realise the right in its fullest extent.

Article 19 (Freedom of Opinion and Expression) :

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



This is an important pillar of democracy. According to the provisions, media needs to be free from the clutches of the state to impart information and to express ideas of people freely. This alone could help to realise the aims of good governance of a democracy. This right guarantees free speech and bans fear of expression. However, any excess use of the freedom is not permissible. This includes write, speech and air the views of a person through any mode of communication that is feasible. Basing on this freedom only the right to information has been born. These freedoms though advocate liberty of an individual to express freely, at the same time impose a responsibility on every one of us to exercise the rights with due caution. At the sametime, necessary restrictions may be imposed by state through legal regulation in order to protect the life, liberty , decency and other freedoms of all the individuals.

Article 20 (Freedom of Assembly and Association) :

1. *Everyone has the right to freedom of peaceful assembly and association.*



2. *No one may be compelled to belong to an association.*

The previous article, and this one are having an inter link with each other. Freedom of association is one of the most important right to express their opinion either individually or collectively. The International Labour organization has adopted a number of conventions and resolutions guaranteeing the freedom of workers to form an association to express their legitimate demands and to secure justice from the inimical activities of their employers. Many marches including freedom marche play a vital role in keeping pressure on a government to discharge its constitutional obligations. On the other hand, a government many a times employ methods to restrict such movements. These may be justified at times but not always.

Article 21 (Participation in Government) :

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

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



This article reiterates the principle of Abraham Lincoln, the former President of US who stated Government of the people, for the people, by the people. In a democracy,



there is no place for anybody to claim that some are superiors by occupying the ministerial posts. All the officers, ministers and the head of a state have to bear in mind at all times, that they are only representing the people who have elected them to govern for a particular period. It is the democracy alone which could win the hearts of the people and only through democracy, one can be able to render their best for the progressive augmentation of human rights.

To sustain the spirit of democracy, it is the duty of the state to conduct elections from grass root level (panchayats in a village) to Parliament at regular periodic intervals. No deviation is permissible in any manner, which may lead to dictatorship. The recent agitations in Middle East are the example wherein people may not allow any government to overpower their rights with an iron hand. It is the duty of every individual to take part in the governance in whatever manner; they could contribute, according to the capabilities of each individual. It indirectly brings in the duty that since the state and its property belongs to the people, all the people in every country have a duty not to resort to violence or destroy the property of the state. The peaceful raise of voice alone can bring in change. This article indirectly advocates "*ahimsa*" principle of Mahatama Gandhi to be followed at all times to establish peace and security on the globe and to realise the human rights in a democratic manner.

Economic, Social, and Cultural Rights

To exercise the claim rights (civil and political rights), and to enjoy the other basic rights of life, liberty, and equality, these constitute as the most vital rights. They are directives to the state to fulfill the wishes of the people and provide the methods and means for the sustainability of mankind. However, in many countries including India, judiciary started interpreting them as part and parcel of claim rights. The Indian Supreme Court in no uncertain terms expressed that if the non-justiciable (Economic, Social and cultural rights) rights have a bearing on the exercise of the justiciable rights (civil and Political rights) they assume the character of claim rights, and it thus constitutes as a duty of the state to extend protection. But, these being only directives or non-justiciable in their sphere, their character cannot be changed. If at any time the judiciary or any other organ (mostly international organs) directs them to implement, states many a times come up with the plea of economic, social and cultural aspects may hamper their implementation. All of us need these rights, and it is the duty of everyone both at the international and national level to strive for the achievement of these rights. The success of implementation and the enjoyment of these rights alone guarantee the freedoms of the individuals and could lead us to establish a conflict free world.

Article 22 (Economic, Social and cultural Rights):

Everyone as a member of society has the right to social security and is entitled to realization through national effort and international cooperation and in accordance with the organization and resources of each state of the economic social and cultural rights indispensable for his dignity and the freedom of his personality.

From this article till Article 27 deals with the economic, social and cultural rights. These articles aim to realize the necessities of mankind. These articles are the basic articles for the full development of mankind and the realization of human rights. Though these articles are placed as second part in the declaration, later it was realized by the UN that without the basic needs man might not be able to exercise his civil and political rights fully. Accordingly, at the time of implementation of covenants, the Economic, Social, Cultural Rights covenant became the first and the Covenant on Civil and Political Rights became the second.

While the UN considering the independence obtained by many states in the fifties and sixties the plight of their people and the economic scenario in which most of

them were placed, to guarantee the rights of economic, social and cultural nature, it took steps at quick succession and adopted the International Covenant on Economic, Social and Cultural rights as the basic one in 1966. These few articles were expanded in the Covenant in detail, which have had a great impact on every branch of knowledge, and later on a number of agreements, treaties including the agreements of trade.

According to this article, it is the priority of the nation states at the individual level and at the international level to strive for the promotion of the basic needs of the individuals at all times. The resources of the world need to be shared by everybody equally without any vested interest. No state or group of states (particularly the developed states) could claim unilaterally sovereignty over the resources. Accordingly, to achieve the spirit of the convention, the Outer Space, the High Seas, the Antarctic, and other zones have been declared as no man's land. In these areas, no state can explore and exploit the resources without a license from the UN. During the licensing period, states or their representative has to explore the resources, and pay the amount of resources fixed at the award of the contract to the UN. The UN will in turn distribute the resources to the poorer states to develop economically.

The spirit of this article led for the evolution of reservations or concessions at the international level long back by the developed states to developing states in their numerous relations. These concessions include in trade, sharing of resources, science and technology, and every possible other area to make them self sufficient to participate in an equal manner. The same philosophy has been carried out by many states at the national level to people those who are in need of the support of the state. These rights are part of several constitutions including India. These are referred to as Directive Principles of State Policy in India.

This article further asserts that it is the duty of national governments to provide minimum social security to every individual particularly, with respect to basic requirements like education, health, and minimum maintenance allowance etc. The article one side advocates self development, determination and on the other hand, imposes a responsibility on every stake holder to maintain balance between development, growth, and sustainability of resources for the future generations.

Article 23 (Right to Work) :

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



This article is another important one among the various economic, social, and cultural rights. The other rights in this category, such as right to food, right to life, right to health, right to social security are positive rights, whereas right to work has both positive and negative elements. The negative aspect of it imposes a responsibility on every one, to earn their livelihood only by moral and legal means. Any type of work chosen by a person needs the approval of the society, and the law of the land. Further, it imposes another restriction on individual to be involved in the process of development of society by contributing their share of knowledge to the state for its economic progress. There is no place for anybody to expect their livelihood without engaging themselves in some sort of work according to their capacity. At the same time, it imposes a responsibility indirectly on everyone to take care of children and older people through their earning capacity. Furthermore, in order to claim human dignity it prohibits such works, which are inhumane in nature like manual scavenging etc as works to be undertaken.

In the positive side, it advocates that work is a basic human right. This implies that everyone has to participate in the production and other activities of income generation of the society and state. By such participation, it automatically brings in an obligation on everyone to respect the other person, whatever, the work that they like to engage in. It is the duty of all employers to pay the remuneration which is equivalent to their daily living as per the law of each country.

In order to promote this right and to form as association as discussed above (Arts. 18-20) play a crucial role. The UN through the International Labour organization monitors various aspects relating to the rights and obligations of the employers and

employees. The ILO has a unique structure among all the organs of the UN. It has a tripartite structure, wherein the States, employers and the workers together participate in the decision making process. In order to improve the economic and social quality of work, and social security apart from all other organs, the Economic and Social Council regularly monitors the work and frames the policy formulations to be adopted by the states.

This article further, guarantees the right to work of migrant workers either within the territorial frontiers of a country or people who flee from one country to another country due to physical, economic, social, or political reasons. In order to protect the rights of migrant workers, the UN in 1990 adopted a Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, which came into force in 2003. The Committee of Migrant Workers coordinates with the member countries and the UN bodies to ensure their rights. However, it is to be noted that many of the labour welfare conventions including the above one are not ratified by many states including India.

Article 24 (Right to Rest and Leisure) :

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

This article ensures the policies adopted by the International Labour Organisation that every employee and worker has to have limited number of work hours. According to the regulations of the ILO, no person is employed more than 8 hours work per day. However, it differs from the categories of people up to a maximum of 12 hours per day. In the case of women and children, they cannot be employed in certain avocations, which are dangerous to their health. Children below the age of 14 years cannot be employed. They have to have not more than 6 hours of work for a day. Women and children cannot be employed after 7 p.m. in the evening. All the workers need to have weekly holidays and other holidays as per the law of each country or region. These provisions will be applicable to all types of employees especially strictly be implemented in the case of regular employees' who are on pay roll of an employment. All workers are eligible for compensation of work, in case of accident or death, and for pension and other benefits after retirement.

Article 25 (Right to an adequate standard of living and health) :

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



This article highlights the significance of basic minimum needs that every individual requires to lead a life to satisfy the necessities such as food, clothing, household requirements, and common minimum standards of water, light, sanitation, pollution free environment, health, and education. This article again reiterates that everyone be provided with work, and to enjoy the freedoms. This article has a link with many other provisions of the International Covenant on Economic Social and Cultural Rights and International Covenant on Civil and Political Rights. It reiterates that it is the duty of the society and the state to provide the necessary means of livelihood. The state has an onerous responsibility to encourage the development of science and technology, which are highly essential tools for the progressive development. In this regard, to help the states to achieve the minimum standards of living to provide for people at the national level, the UN adopted a number of international instruments. These instruments in turn, guaranteed the right to free exploitation of resources, and right to self determination. In fact, this right has further augmented the right to development as another important component.

This article imposes an obligation on the states to achieve adequate levels of nutrition, to eliminate hunger, and malnutrition. The various organs of the UN and the other bodies including International Monetary Fund and World Bank have an obligation to extend sufficient loans to developing states at minimal interest rates. Among all the organs of the UN, United Nations Development Programme (UNDP) and the Economic and Social Council (ECOSOC) regularly engage a number of researchers to evolve strategies to meet the required basic needs.

The UNDP has launched a programme called Habitat. Accordingly, the programmes implemented by the states are reviewed periodically. Basing on the review, remedial mechanism is evolved to rectify the defects, if any are there, to achieve the eight important goals of the Millennium. Under the programme, UNDP involves a number of players (which include, states, individuals and NGO's) as



Focusing on the ways and means by UNDP



Are we ready to achieve the Millennium goals

partners to implement its ideals. These programmes are monitored by the nation-states through the Annual sessions of the General Assembly, and frames the agenda every year to achieve the targets.

It further highlights the significance of right to health including the prevention of communicable diseases like HIV/AIDS and other common diseases. The clarion call of this article imposes a duty on everyone, to use the resources carefully without any wastage, and protect them for the future generations. It also reminds everyone to ban illegal trafficking of human beings and the cruelest profession of prostitution in whatever form or method that is in existence. This article further guarantee, the rights of people of third sex. It imposes a responsibility on every one of us not to adopt or resort to any derogatory practices that affect the life, liberty, and freedom of others at any time.

It also imposes a responsibility to protect the rights of mentally infirm people, old people, and all others who have no source of income generating capacity to be taken care by the society. If a state is unable to provide employment of any kind, it is the duty of the state to pay a minimum honorarium to lead a life.

A great majority of population in many of the developing states are poor. It is the responsibility of these states to evolve policies to provide better living conditions to their population to wipe out the tears from every human eye as parties to a number of human rights instruments. Along with the states, we the people of the United Nations (especially the rich and other economically sound people including the private corporations) have also an onerous duty to share our resources to the extent possible to assist the people in need and contribute our might for the development of society, and international community as members. In fact, many Non-Governmental Organizations, philanthropists are already involved in rendering their best. However, they are not adequate to meet the growing demands of people. It is the duty of every

one of us to render our best in extending a helping hand to the best possible extent.

Article 26 (Right to Education) :

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

This article confers the basic right to education to everyone. According to this, education should serve the purpose for which it is to pursue. This conjoins the saying and the philosophy advocated by Swami Vivekanda educating ourselves with values, morals and with a particular purpose to serve the needs of the society and as well oneself. Knowledge is inherent in every body. It can be sharpened only when it is tapped in a proper perspective. This article emphasis the importance of education as a tool to enrich people to enjoy their rights guaranteed both nationally and Internationally. Accordingly, it aims to achieve the following goals. They are:

- a) *Education to everyone alone promotes the strengthening of respect and helps for the promotion of human rights and fundamental freedoms.*
- b) *The full development of the human personality and the sense of its dignity could be achieved only when the significance of human person is realized*
- c) *It helps to understanding, tolerance, promotes gender equality and friendship with all other human beings across the world.*
- d) *It promotes compassionate behavior towards other vulnerable groups, such as refugees, mentally and physically infirm people, old aged persons, children, and third sex and socially economically culturally disadvantaged sections, and promote to end racist, linguist, religious, etc.*
- e) *It enables all people to take part freely and effectively in the development of society*

and states, economically, politically, socially, legally and culturally.

- f) *Education alone provides a goal to achieve the objectives of human rights, by inculcating values, morals, and ethical perspectives of mankind.*
- g) *It enables to achieve the United Nations and the Objective of international law to establish peace and security on the globe.*

In order to achieve these main goals which contribute for the furtherance of common brotherhood and one world concepts, the United Nations Education, Scientific and Cultural Organisation (UNESCO) formulates a number of policies and programmes to help the states to achieve cent percent literacy. The UN Millennium Summit and the World Conference also highlighted the significance in no uncertain terms. Accordingly, the UN declared 2005-2014 as the Decade of Education for Sustainable Development. It hopes to achieve literacy to a maximum extent. This article further highlights that though parents have the right to choose the kind of education that their children have to undertake, this doesn't mean that they have an absolute right to force the kind of education against the wishes of their children. In tune with the policy perspectives of the UN and other international organizations, the Government of India has adopted the Right to Education Act 2010, making education as a compulsory aspect for every citizen of India.

Article 27 (Right to Culture) :

1. *Everyone has the right freely to participate in the cultural life of the community to enjoy the arts and to share in scientific advancement and its benefits.*
2. *Everyone has the right to the protection of the moral and material interests resulting from any scientific literary or artistic product of which he is the author.*

The UNESCO has a specific instruction to achieve the objects of this article. It has adopted a number of conventions dealing with various avocations for the promotion of cultural and scientific activities. According to this article, no one has a right to degrade the culture or any aspect of cultural perspective including language under any circumstances. Every culture of every society needs to be honoured, respected, and be promoted. The knowledge acquired through scientific and technological inputs need to be useful for the advancement of the rights and fundamental freedoms of mankind. It imposes an obligation on the states and individuals to share their scientific and technological skills for the development of mankind in whatever way it is possible.

In this regard, to promote the scientific and technological advancement, and to encourage individuals across the world, actively to involve in, for the promotion and dissemination of knowledge, the Intellectual property rights recognized by international law constitute as human rights, but not as monopoly or proprietary rights. The limited protection given to individuals is only in recognition of their hard work, for the promotion and advancement of scientific and technological knowledge. The recognition and such strict resume alone motivate individuals to undertake research for the furtherance of the development of the mankind and resources of the world. This provision is an extension the previous article of right to education as a human right.

This article makes it sure that the advancement of science and technology is only for the welfare of society in general and mankind in particular. Any advancement of science and technology that creates danger to the mankind is prohibited. In fact, international law of disarmament imposes a responsibility on states not to use their lethal and dangerous weapons, which may wipe out the mankind as a whole. It further reiterates, science and technology as a part and parcel of education and cultural human rights any invention should subserve the interests of mankind as a whole. Accordingly science & technology and practitioners of it has a wider responsibility to advance their knowledge to help the mankind to sustain peace and security and integrate with the objectives of the international community.

Article 28 (Social and International Order) :

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

This is the most important article of the Declaration. This article has both positive and negative aspects on the international community as a whole. On the positive side, it ensures the freedom of life and liberty to be enjoyed by every person as a subject of international community without any discrimination whatsoever it may be.

On the negative side, it casts a responsibility on the nation-states to discharge their responsibilities, which they have voluntarily accepted to abide by the principles of international law. This article further, imposes responsibility on the international actors namely states, to evolve policy perspectives, developmental schemes and the necessity to evolve methods and techniques to share the resources of the world on an

equitable basis. In spite of generations of concentrated international action to development, the gap that exists between the rich and poor countries is widening instead of bridging it up. It brings forth the onerous task of the international community, including the UN to evolve more stringent steps and policies to evolve in nurturing the aspirations of the mankind, in the realization of fundamental freedoms for which they promised to live through international law.

It further reiterates that it is the duty of the states, to abide by the principles of international law without any deviation, and observe the principles of various instruments of human rights by concentrated dialogue to adhere to all the instruments without resorting to reservations. It also imposes a responsibility on the states, to stop all destructive efforts to human environment, peace, and security by strict adherence to the principles of international law of human rights.

At the same time, it imposes an obligation on the people of each country to press for resolution of disputes between nation states, and to observe the human rights standards, which they have drafted or adopted. This means, the significance of Human Rights Education is an important aspect for the world community, to achieve the objectives of international law of human rights. It is the onerous duty of states to change their behavioral patterns with a common goal to wipe the tears of mankind and to save the succeeding generations not only from the scourge of war but from the economic, social and cultural inequality.

Article 29 (Duties and Limitations):

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

This article is the crucial one and the most important one to be followed by mankind, to realise and to enjoy the benefits of rights that are guaranteed in the Declaration. This reiterates the significance of duties that play an important role in the promotion, exercise and the realization of human rights.

This article again establishes the link between economic, social, and cultural rights and civil, and political rights, on one hand, on the other hand, the practice that the international community and individuals around the world need to observe strictly for the promotion of dignity of life, liberty, and freedom of every individual. An analysis of this article as discussed in unit two; imposes only responsibilities and not an automatic sanction of rights to be alone enjoyed. This further reiterates that the provisions stated in article 28 need to be strictly adhered by states in the better augmentation of the resources of the world community.

This article recognized the principle of Lord Gautham Buddha that there is an inherent link exists between law, society, individual, and the world community. It is our duty to remember always that there is a continuous inter-relationship, indivisibility, interdependence, love and affection exists between individuals. The compassionate exercise of these aspects towards mankind with tolerance alone helps to achieve the full realization of human rights. The contemporary owes of the mankind are not because of someone, but because of everyone of us for not adhering to duties, or sincerely discharging obligations that we owe as partners of society in the national and international community.

The second paragraph imposes restrictions on the states too as actors of international community. States too as legal persons representing their people have to bear in always that it is their behavior at a higher place as sovereigns will only guide, and establish responsible national communities. They need to discharge their obligations and settle their disputes in good faith and as torch bearers of peace need to be rule bound in their relations rather than resort to political or any other considerations. If they observe human rights without any deviation in true spirit, then they could supervise the practices of their citizens, and could assist them in rendering their best assistance in the realization of fundamental freedoms.

Part three of the article, states that as members of the international community, both states and we the people of the United Nations only have responsibilities to discharge our duties, strictly adhering to the principles of the Charter. If we deviate, then UN as a collective body cannot achieve the objects single handedly, and to blame it for the miseries or sorrows is of no consequence.

Article 30 (No Abuse of Rights) :

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

The last provision is the most important one, compared to all the articles set forth in the Declaration. from the picture it is clear that if any individual or state either interprets the provisions for their own selfish interests, it means only destruction of the fundamental freedoms of the individual. This article enshrines that every time, all the actors need to act legally, and exercise their duties with great care and precision without any recklessness towards life, liberty, equality, and fraternity of others.



If any time any one of us act with selfish motives, or discharge our duties in a negligent manner, or discharge them without any adherence to respect for the rights of others, it ultimately result in miseries. Further, the concepts of peace, security, and one world, or single mankind, freedoms of life, liberty, and equality remain as ideals alone. The deviation further results in bringing anarchical tendencies, and other associated miseries to mankind not only to present generations, but also for the future generations.

The last principle underlines once again, in theory and practices both the states and individuals as partners and actors of international community need to comply with the principles of law and justice with strict adherence. The strict practice of duties alone will bloom the culture of human rights. Such practices alone wipe the miseries of the contemporary world. This will result to achive long lasting solutions to establish peace and security.

Summary:

The concept of Human Rights was first stated in the Provisions of the Charter of the UN in 1945. In order to expand them, it later constituted a human rights committee. Basing on the draft prepared by the Committee on December 10, 1948 the General Assembly adopted the Universal Declaration of Human Rights. As a mark of respect, every year, December 10 is celebrated as the Human Rights Day.

The Declaration is a most significant one in the history of human rights. It constituted as a basis for the adoption of number of Declarations, Covenants, and Conventions on human rights. The expansion of this declaration later crystallized into Economic, Socio, and Cultural rights, Civil and Political Rights Covenants and Conventions of group rights such as women, children, disabled etc. The adoption of the declaration has brought in radical changes in the international and national legal arena. It recognises rights of both the nation-states and the individuals. With its adoption, people across many of the colonies in the world could secure independence and establish a government of their choice.

Every provision of the declaration innately advocates that everyone has a duty to discharge before claiming the right. If one is not able to discharge a duty, then the fruit of right is also imperfect. All the problems that are facing the world, especially, those of them identified in the Millennium goals are due to lack of strict adherence of duties.

CONCLUSION

The efforts of the individual states led for the recognition of human rights in international law in 1945. The UN Charter adopted with an aim to protect and uplift the Human Rights of Individuals at all times. The UN in order to achieve these objectives adopted a number of Conventions, Covenants, Declarations, and resolutions. It has created an international mechanism, Commission on Human Rights (presently referred to as Human Rights Council and a High Commissioner for Human Rights) to oversee the activities of the states and to protect the rights of the individuals.

Apart from the United Nations, it is the duty of nation-states and we the people of the United Nations to practice the culture of human rights. It implies subtly that every one of us (individuals and States), both at the national and international scenario need to discharge our duties at all times without any deviance. The strict adherence to human rights alone would end the maladies of the present day world and bring back the glory of respect to humanity and mankind. Only then, it would be possible to claim, liberty, equality, freedom of speech and expression the way they have been crafted to achieve the ideals of peace and security to mankind.

Near home, a number of ancient texts and philosophers have advocated the same for the promotion of the concept of one world with a harmonious society of living in Unity and diversity. If we practice at the national level, certainly it will have an impact

on the course of action in the psychological behaviour of states to stop the practice of Machiavellian tactics in their international relations with each other and to follow strictly human rights.

The strict adherence to human rights is nothing but to adopt oneself to the value system either at the individual level or at societal level would only envisage in realising the objectives of human rights.

With these objectives, a number of efforts are initiated across the World for the dissemination and propagation of human rights for their better augmentation. With the same motive, to help the polity of India to regain its glorious Past, and to achieve the Sarvodaya Concept of the Father of the Nation, Mahatma Gandhi, (which in turn led the international community to emulate) and to secure the concept of social justice of Dr. B. R. Ambedkar, the University of Pune's this programme is to be appreciated for inculcating the culture of human rights, to its young battalion of students, to mould them as responsible future citizens.

One Word Answer Questions

1. **On which organ of the UN does Art 13 the Charter impose responsibility for the promotion of human rights?**
(A) General Assembly
2. **What is signified by Bonder Labour ?**
(A) Debt to a Rich Man
3. **The International Criminal Court is Located in which Country?**
(A) The Netherlands (Remember if Netherlands is written without The, The answer will be wrong)
4. **Double Jeopardy means.....**
(A) No punishment twice for a same offence
5. **Which organisation of UN Deals with the rights of Labour?**
(A) International Labour Organisation

Multiple Choice Questions:

1. **In which year was the UDHR was adopted by the United Nations?**
(A) 1947 (B) 1948 (C) 1945 (D) 1984
2. **Which article deals with the concept of Slavery?**
(A) Article 3 (B) Article 5 (C) Article 6 (D) Article 4
3. **Who donated the peace bell to the United Nations?**
(A) Kapil Dev (B) Sachin Tendulkar (C) Vinod Kamble (D) George Bush
4. **Who was the Chairman of drafting Committee of UDHR?**
(A) Margret Thatcher (B) Indira Gandhi (C) Eleanor Roosevelt (D) Srimavo Bandaranayke
5. **In which year was the World Conference on Human Rights was conducted?**
(A) 1993 (B) 1992 (C) 1995 (D) 1996

Answers : 1) B 2) D 3) B 4) C 5) A

General Information

The Model questions given in each Unit is indicative in nature only. They may consist more than these two patterns. They may be matching, are asking questions by giving a paragraph, and answer the questions from that paragraph, or logical questions etc. All these will be only in this format of ticking as they need to be evaluated by a computer. No written answer questions will be there.

ANNEXURE

Suggestive Reading Materials:

1. Books

Vast literature is available on Human Rights. The few reading specified here only are suggestive:

- Leah Levin: Human Rights (Questions and Answers) National Book Trust India, New Delhi, 1992
- ABC Teaching of Human Rights: Centre for Human Rights, UN Publication, New York, 1989
- Rokeah, M: The Nature of Human Values, New York: The Free Press, 1973
- Malcolm N. Shaw, International Law, Sixth Edition, Cambridge University Press. (Chapter VI- The international protection of Human rights, and VII- the regional protection of Human rights.) , 2008
- L. Oppenheim: International Law (Edited by Sir Robert Jennings and Sir Arthur Watts) 9th edition Vol.1 Part 2 to 4 Chapter 8 for Human Rights Chapter 14 & 15 for International Legal Instruments, 1992, Longman , London
- Ishay: Human Rights Reader; Routledge (second Edition) 2007
- Encyclopedia of Human Rights : 5 volumes; Oxford University Press; 2009
- Daniel Fishlin & Marth Nandorfy: The concise guide to Global Human Rights; Oxford University Press; 2007
- Justice D.M. Dharmadikari: Human Values and Human Rights: Universal Publications, New Delhi, 2010
- Jaswal S.S., Introduction to Human Rights and Duties, Vikas Publishing House Pvt. Ltd.,

2. Journals and Documents :

- UN General Assembly Resolution on Human Rights Education: A/59/525/Rev.1 dated 2 March,2005Marko Milanovic: Is the Rome Statute Binding on Individuals?(And Why we Should Care) Journal of International Criminal Justice vol.9, 2011,25-52
- Christine Min Wotipka and Kiyoteru Tsutsui: Global Human rights and State Sovereignty: State Ratification of International Human Rights Treties,1965-2001; Sociological Forum; Vol,23; No.4 2008,724-752
- R.B. BBrandit: The Concept of Obligation and Duty; Mind, Oxford Journals, Vol. 73, No. 291, July 1964; pp..374-393
- John H. Knox: Horizontal Human Rights Law; The American Journal of International Law , Vol.102, 2008, p.1-47
- Joan Mesquida Sampol: Duty Moral and Political; [http://ivr-enc.info/index.php?title=Duty-Moral and Political](http://ivr-enc.info/index.php?title=Duty-Moral+and+Political) \
- Syela BenHabib Another Universalism: On the Unity and Diversity of Human Rights; ,Proceedings and Address of the American Philosophical Association; 81, No. 2, 2007, 1-32 available on the JSTOR journals blog
- American Consulate Library: Human Rights Education , 2002

Reports :

- for cases of various courts see : All India Reporter, Superme Court Cases, Weekly Law Reports, etc. may be consuleted.
- Reports of the National Police Commission.
- Reports of the National Human Rights Commission.
- UN Human Rights Council and Other Organs of the UN at indepandent websites of each organisation.
- Reports of various Non-Governmental Organisations such as Amensty International, Human Rights Watch, PUCL, Commonwealth Human Rights Association etc.

3. Reference of Acknowledgement of Web Sites :

Human Rights (Stanford Encyclopedia of Philosophy;

<http://www.plato.stanford.edu/entries/right-human> also see for values, Rights the above web address. <http://www.Wikipedia>.

Andrew Clapham : Human Rights Lexion, Oxofrd University Press; 2005; also see Human Rights A very short Introduction; 2007, Oxford University Press

Magdalena Sepulveda and others: Human Rights : Reference Hand Book, 2004 University for Peace of the United Nations

<http://www.Un.Org> see the section on Human Rights and the various links provided by UN.

Wikipedia the free encyclopedia of the Web Campbell, Kenneth, "Legal Rights", The Stanford Encyclopedia of Philosophy (Spring 2011 Edition), Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/spr2011/entries/legal-rights>

[sites http://resources.lawyersnjurists.com/research-papers/assignments/law/jurisprudence/hohfeld%E2%80%99s-analysis-of-irghts](http://resources.lawyersnjurists.com/research-papers/assignments/law/jurisprudence/hohfeld%E2%80%99s-analysis-of-irghts)

http://www.newworldencyclopedia.org/entry/Info:Main_Page

http://www.newworldencyclopedia.org/entry/Info:Main_Page

<http://mshrc.maharashtra.gov.in/Article/upload/TheImportanceofH.R.Education%20%20.pdf>

References of acknowledgement of the web pages for images inserted in the study material.

pbcopelika.org

http://www.freshnetworks.com/blog/wp-content/uploads/2010/11/photo-online_community.jpg

<http://possibilitiesunlimited.files.wordpress.com/2011/02/community.jpg>

<http://www.aishdas.org/gallery/Community.jpg>

http://international.phillipmartin.info/intl_global_community.gif

<http://www.personal.psu.edu/users/s/a/sam50/Human%20Rights%20Abuse.jpg>

<http://www.onedayforhumanrights.com/wp-content/uploads/2008/11/universal-declaration-of-human-rights.jpg>

<http://www.mynews.in/dailyimage/news/peace.jpg>

<http://c.tadst.com/gfx/stock/human-rights-day.jpg>

http://www.humanrightsiinternational.org/fileadmin/user_upload/495x268/iStock_000002055601Small.jpg

http://upload.wikimedia.org/wikipedia/en/thumb/e/ea/United_Nations_Human_Rights_Council_Logo.svg/220px-United_Nations_Human_Rights_Council_Logo.svg.png

<http://www.gaypasg.org/gaypasg/PressClippings/2006/Dec/UN%20logo.jpg>

<http://www.wnd.com/images/UnitedNations1.jpg>

<http://www.norwayosce.org/NR/rdonlyres/1BCD8E86E48048009D26C44287A4C90A/121265/326166.jpg>

<http://www.humanrights.com/sites/default/files/dove.jpg>

http://nation.com.pk/uploads/news_image/large/LibyasuspendedfromUNHumanRightsCouncil_20135.jpg

http://upload.wikimedia.org/wikipedia/commons/thumb/f/fe/UN_Members_Flags.JPG/800px-UN_Members_Flags.JPG

<http://www.financialpost.com/todays-paper/4978128.bin?size=620x465>

<http://www.un.org/cyberschoolbus/untour/imgjap.jpg>

<http://spaceformusic.com/symposium2000/images/bellrendering.jpg>

http://3.bp.blogspot.com/_XxAah_3epfI/TQEj7Bv_NXI/AAAAAAAAABNg/kQSHPIuvzIY/s1600/HUMAN%2BRIGHTS%2BFOR%2BALL.gif

http://www.presentationsistersunion.org/_uploads/fckpg/HumanDignityHumanRights_W_9.jpg

http://www.farmingfirst.org/wordpress/wp-content/uploads/2010/09/mdg_logo.jpg

<http://www.iowaepiscopal.org/images/photos/mdgcross.jpg>

<http://www.tidec.org/Visuals/Tidetalk/Network%20articles/Millennium%20goals/web-mill-goals.gif>

<http://www.un.am/thumb.php?file=2437&width=480&height=640>

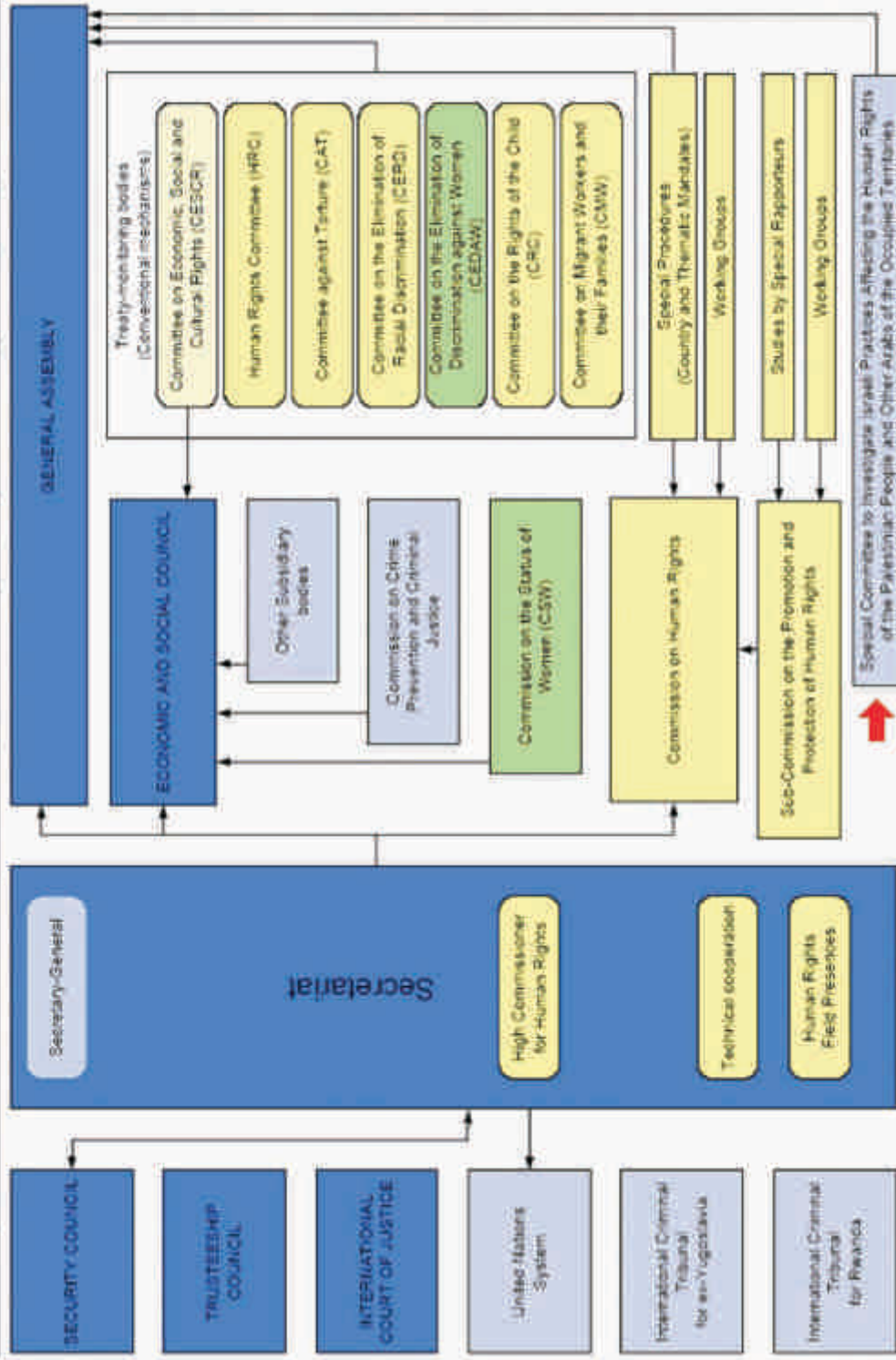
<http://www.essex.ac.uk/eo/stylesheets/Different%20People%20Poster%20cropped.JPG>

http://www.antislavery.org/images/2008/b/2_bonded_labour_family_sq.jpg
<http://www.cfob.org/images/labor1.jpg>
http://3.bp.blogspot.com/_IDmEgaE9Tek/TKFOQXci2DI/AAAAAAAAADI/bIWeIcpKfv4/s1600/couvert-depliant-cover-guide2-eng.jpg
http://www.trivester.com/static/images/news/human_trafficking_slavery.png
<http://news4u.co.in/human%20trafficking%20victims.jpg>
http://etc.usf.edu/clipart/49600/49653/49653_free_mason_lg.gif
http://www.unitycorps.org/images/unity-art/2004/winter/sonia-jimenez/unity_432x328.jpg
<http://www.indiamike.com/india/attachments/6888d1197803283-andaman-trip-report-and-photos-cellular-jail.jpg>
http://notenoughgood.com/wp-content/uploads/2011/06/man-behind-bars_bxp357761.jpg
http://3.bp.blogspot.com/_HoDij8Z2tHY/S5E3vR0OSYI/AAAAAAAAADzM/zG9XO72XFO/s320/Chart+of+Human+Rights.jpg
<http://cache2.allpostersimages.com/p/LRG/37/3790/2HEIF00Z/posters/morse-ralph-scene-in-the-courtroom-during-the-3rd-day-session-of-the-nuremberg-trial.jpg>
http://upload.wikimedia.org/wikipedia/commons/thumb/5/58/IMTFE_court_chamber.jpg/300px-IMTFE_court_chamber.jpg
<http://daccess-dds-ny.un.org/doc//UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement>

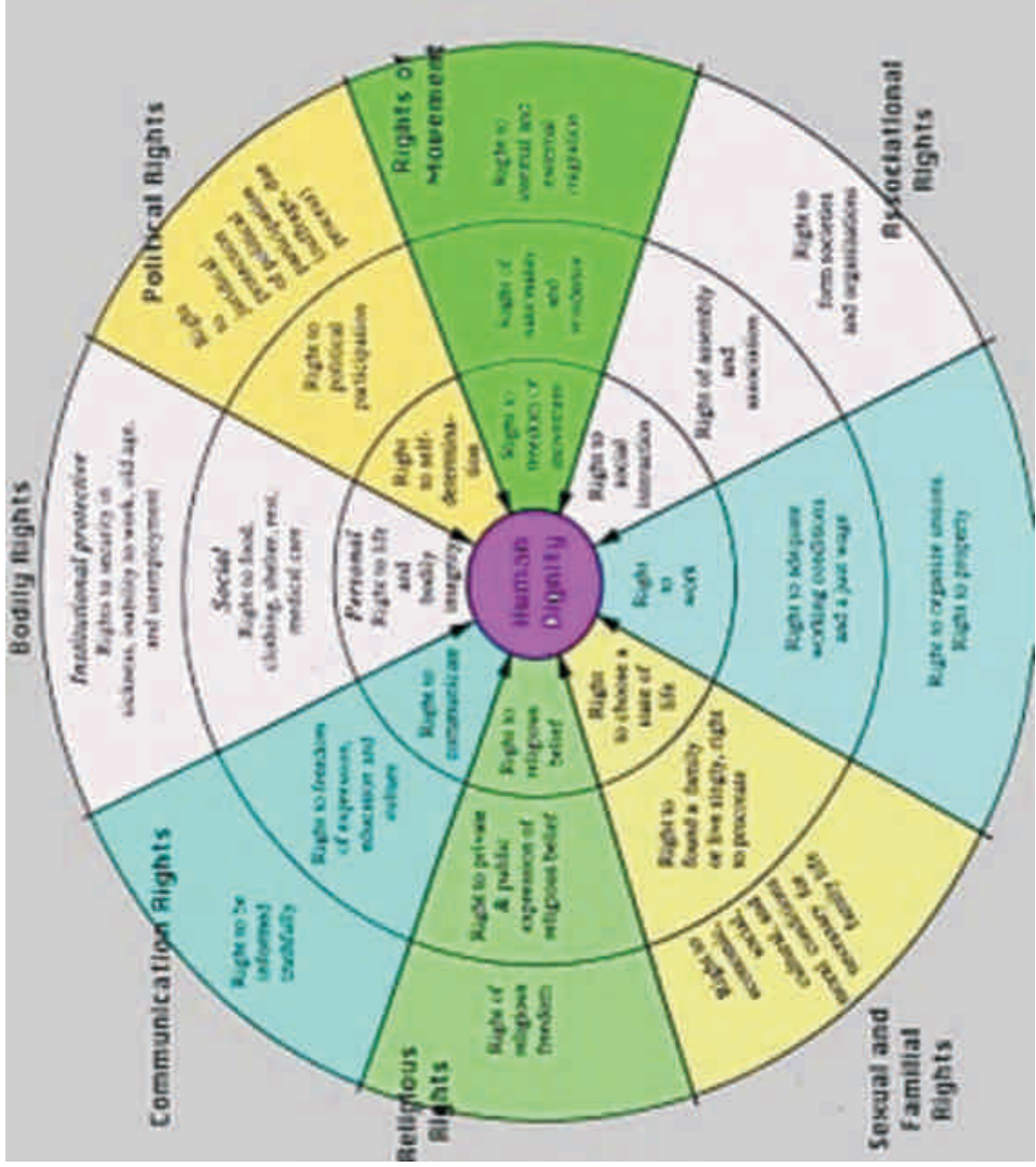


Structure of the United Nations Human Rights Bodies and Mechanisms

*This diagram, which is not exhaustive, is intended to illustrate the functioning of the United Nations system in the field of human rights. Emphasis is given to those bodies and mechanisms with major human rights responsibilities.



This chart is a sum up of the rights discussed above.



About the Author

Dr.T.S.N.Sastry is a senior teacher spanning over more than two decades of teaching, and research experience , especially in the fields of international law and human rights. He authored a book on International Law of State Succession, and edited three books on Human Rights and Constitution. He Published a number of research papers in journals of repute on International Law, Human Rights and Constitution of India. He is currently an academic fellow of the Erasmus Mundus External Window Lot 13. Dr. Sastry delivered lectures on various areas of international law, human rights in a number of Indian and foreign Universities. He was the fellow under the cultural exchange programme of the Government of France. He received Vijaya Shree Award from the India International Friendship Society, New Delhi in 2005 for his efforts for the propagation of Human Rights Education.

Dr. Sastry was responsible in establishing the UGC Centre for Human Rights and Duties Education in 1997 in the Pondicherry University. As a founder coordinator of the centre, he conducted a number of programmes, seminars, and conferences for the propagation of human rights, apart from the academic programmes leading to research and teaching in human rights. He served as Dean, Director, and Controller of Examinations and as a member of a number of academic bodies. Presently he is the Academic Council Member and Visiting Professor of the Chanakya National Law University, Patna.

Dr. Sastry conducted a number of seminars, and the founder of the Post Graduate Moot Court Competition, and a Placement Cell in the traditional set up of Law Departments in a University system.

