HUMAN RIGHTS

COURSE CODE: M23PA02DE

Postgraduate Programme in Public Administration
Discipline Specific Elective Course
Self Learning Material

SREENARAYANAGURU OPEN UNIVERSITY

The State University for Education, Training and Research in Blended Format, Kerala

SREENARAYANAGURU OPEN UNIVERSITY

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Mission

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Pathway

Access and Quality define Equity.

Human Rights
Course Code: M23PA02DE
Semester - III

Discipline Specific Elective Course
Postgraduate Programme in Public Administration
Self Learning Material
(With Model Question Paper Sets)

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Postgraduate Programme in Public Administration

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The courses offered by the Sreenarayanaguru Open University aim to strike a quality balance, ensuring students are equipped for both personal growth and professional excellence. The University embraces the widely acclaimed "blended format," a practical framework that harmoniously integrates Self-Learning Materials, Classroom Counseling, and Virtual modes, fostering a dynamic and enriching experience for both learners and instructors.

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Rest assured, the university's student support services will be at your disposal throughout your academic journey, readily available to address any concerns or grievances you may encounter. We encourage you to reach out to us freely regarding any matter about your academic programme. It is our sincere wish that you achieve the utmost success.

Regards,
Dr. Jagathy Raj V.P.   01-10-2025

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BLOCK 1
Defining Human Rights

UNIT 1

Introduction to Human Rights

Learning Outcomes

By the end of this unit, learners will be able to:

▶ define the meaning and foundational principles of human rights.

▶ differentiate between categories and characteristics of human rights.

▶ analyse the evolving interpretations and relevance of human rights, especially in relation to emerging challenges such as digital rights, AI, and climate justice.

▶ evaluate the scope of individual, collective, positive, and negative rights in theory and practice.

▶ apply theoretical frameworks (Natural Rights, Utilitarianism, Marxism, and Postmodernism) to contemporary case studies of human rights.

Background

Human rights form the moral and legal foundation for modern concepts of justice, equality, and human dignity. They represent the inherent entitlements of every person, derived from the simple fact of being human, and serve as universal standards guiding the conduct of individuals, societies, and governments. Rooted in centuries of philosophical thought and shaped by historical struggles against oppression and injustice, the concept of human rights has evolved into a comprehensive global framework that safeguards the liberty, equality, and well-being of all individuals.

The modern human rights discourse emerged prominently in the aftermath of World War II, when the world witnessed unprecedented violations of human dignity. The adoption of the Universal Declaration of Human Rights (UDHR) in 1948 marked a turning point, transforming moral aspirations into an international legal and ethical language. Since then, human rights have expanded to encompass civil, political, economic, social,

cultural, and collective dimensions, reflecting humanity's growing understanding of what it means to live with freedom, justice, and security.

This section explores the meaning, nature, scope, and characteristics of human rights, tracing their evolution from philosophical ideals to enforceable legal norms. It also examines the three generations of rights - civil and political, economic and social, and solidarity or collective rights - while highlighting emerging trends such as digital rights, environmental rights, and the rights of future generations. Together, these discussions reveal that human rights are not static doctrines but living principles that continually adapt to the moral, technological, and environmental challenges of an evolving world.

Keywords

Human Dignity, Universality, Inalienability , Indivisibility, Interdependence, Intergenerational Justice

Discussion

1.1.1 Meaning and Definition of Human Rights

Human rights are the fundamental and inalienable entitlements that belong to every individual by virtue of their humanity. They are not created by legislation or granted by governments, but stem from the inherent dignity, equality, and moral worth of every human being. These rights transcend national boundaries, cultural differences, and political ideologies, asserting that all individuals, regardless of race, ethnicity, gender, language, religion, or socio-economic status, are entitled to equal protection, freedom, and opportunity. The concept affirms the universality of these rights, recognising that each person should be empowered to live a life marked by liberty, safety, dignity, and full participation in society.

❑ Inherent Entitlements

❑ Pre-political rights

According to the United Nations Office of the High Commissioner for Human Rights (OHCHR), human rights are defined as "rights we have simply because we exist as human beings; they are not granted by any state." This definition underscores the inherent, pre-political nature of human rights, placing them beyond the scope of governmental discretion. Rather than being privileges bestowed by a legal system or state apparatus, human rights are understood as moral entitlements rooted in the intrinsic dignity and equality of every person. This approach

shifts the discourse from state-centred legalism to a people-centred moral and ethical imperative, demanding that governments and institutions respect and uphold these rights irrespective of their political ideologies or cultural frameworks.

Amnesty International, a globally recognised human rights organisation, articulates human rights as "the fundamental rights and freedoms that every person in the world is entitled to," reinforcing their universality and moral imperative. These rights span a comprehensive array of civil, political, economic, social, and cultural domains. They include the right to live free from torture and arbitrary detention, to express oneself freely, to access quality education and healthcare, to enjoy just and favourable conditions of work, and to engage in the cultural and political life of one's community. Amnesty's framing highlights not only the indivisibility of rights but also their foundational role in achieving justice and equality worldwide.

❒ Comprehensive set of rights

Andrew Clapham emphasises that the term "human rights" is deeply rooted in both moral philosophy and legal obligations. On the ethical level, human rights embody universal principles of dignity, fairness, and justice that transcend cultural and historical boundaries. Legally, they constitute enforceable obligations that states must honour through domestic and international law. Clapham cautions against reductive views that frame human rights merely as legal constructs or as Western ideological impositions. Instead, he argues that human rights serve as vital mechanisms for challenging systemic injustices, empowering individuals, and restraining the abuse of power, whether by states, corporations, or other powerful entities.

❒ Moral and legal roots

Jack Donnelly adds another important dimension to the concept of human rights by describing them as "entitlements that individuals have in virtue of being human and that they can claim from their own society or government." His approach emphasises that human rights are not metaphysical absolutes, but rather socially constructed norms grounded in a shared moral and political consensus. While these rights emerge within specific historical and cultural contexts, their normative power lies in their ability to transcend those contexts to promote human dignity. Donnelly views human rights as dual-faceted: they serve as enforceable legal claims within state structures and also as universal moral standards used to critique injustice and demand accountability, both domestically and internationally.

❒ Socially constructed norms

In sum, human rights encompass a multifaceted spectrum

that integrates legal statutes, political frameworks, ethical norms, and philosophical principles. While different interpretations emphasise particular aspects, such as legal enforceability, cultural relevance, or moral reasoning, they all fundamentally affirm that every person, by virtue of being human, is inherently entitled to equal dignity, autonomy, and freedom. This convergence highlights the universal aspiration for justice, inclusivity, and the protection of human dignity across all societies.

❐ Universality

Curious Origin Alert: When Did "Human Rights" Become a Thing?

Before World War II, people mostly spoke of *natural rights* or *the rights of man*, rooted in Enlightenment philosophy. The term "human rights" wasn't widely used in political or legal discourse. But the atrocities of the Holocaust and global war crimes forced the international community to act. In 1948, the Universal Declaration of Human Rights (UDHR) marked a significant turning point, as it codified dignity, equality, and liberty as universal human rights standards. It transformed moral outrage into a shared legal and ethical language for humanity.

1.1.2 Nature, Scope and Characteristics of Human Rights

1.1.2.1 Nature of Human Rights

The nature of human rights encompasses diverse categories of entitlements arising from the inherent dignity and equality of every human being. These rights are typically grouped into civil and political rights, which safeguard individual liberty and participation in public life, and economic, social, and cultural rights, which ensure access to conditions necessary for a life of dignity. Civil and political rights, such as freedom of expression, the right to a fair trial, and protection from arbitrary detention, emphasise individual autonomy and protection from state abuse. Meanwhile, economic, social, and cultural rights, including the rights to education, health, and an adequate standard of living, highlight the importance of collective welfare and social justice. Together, these categories illustrate that human rights are not confined to any one domain of human activity; they span across personal, social, and institutional spheres, reflecting the multifaceted needs and aspirations of individuals and communities.

❐ Diverse categories of entitlements

The nature of human rights is also defined by their moral

and legal character. Morally, they express the universal principles of dignity, equality, and respect that underlie human existence, while legally, they are codified through international conventions, constitutional provisions, and domestic laws that hold states accountable. Human rights thus represent both ethical imperatives and enforceable entitlements, binding individuals, governments, and institutions to uphold justice and humanity. They function as a common moral language and a normative framework that transcends cultural, political, and ideological boundaries, establishing a global consensus on the minimum standards necessary for a dignified life. In this sense, the nature of human rights is both universal and dynamic, grounded in shared human values yet continually evolving in response to new social realities and emerging challenges in a rapidly changing world.

❑ Moral and legal essence

1.1.2.2 Scope of Human Rights

Individual Rights

These are rights that individuals possess in their personal capacity, regardless of their group affiliation or collective identity. They serve to safeguard personal autonomy, integrity, and dignity, ensuring that each person can make free choices and live without unjust interference. Individual rights are foundational to democratic societies and include such essential freedoms as the right to life, freedom of thought and expression, freedom of movement, the right to privacy, and protection from arbitrary arrest or detention. Their enforcement ensures that individuals are protected from abuse by both state and non-state actors, thereby enabling them to participate meaningfully in civic and social life.

❑ Personal autonomy

Collective Rights

Collective rights are those held by groups rather than individuals and are essential for recognising and protecting the shared identities, histories, and interests of communities. These include the rights of indigenous peoples to self-determination, land, language, and culture; the rights of ethnic, religious, and linguistic minorities to preserve their heritage and practice their traditions; and the rights of national or sub-national groups to participate in politics and maintain cultural autonomy. These rights are instrumental in promoting social cohesion, ensuring pluralism, and preventing systemic discrimination, marginalisation, or cultural extinction. By acknowledging that certain rights are best realised at the group level, collective rights contribute to a more inclusive and equitable human rights framework.

❑ Group identity

Positive Rights

Positive rights require proactive measures by the state and other duty-bearers to ensure their fulfilment. These rights obligate governments to allocate resources, develop policies, and establish institutions that enable individuals to access essential services and opportunities. Examples include the right to education, which necessitates public schooling systems; the right to health care, which requires hospitals and trained personnel; and the right to social welfare, which depends on state-supported safety nets. Unlike negative rights, which involve non-interference, positive rights are centred on the state's responsibility to act in ways that enhance human well-being and promote social equity.

Negative Rights

Negative rights impose a duty of non-interference on states and other actors, ensuring that individuals are free from external constraints or coercion. These rights protect personal liberty and autonomy by requiring that governments abstain from actions that would violate fundamental freedoms. Core examples include the right to privacy, freedom of speech and religion, and protection from torture or arbitrary detention. Although often perceived as requiring minimal state action, the realisation of negative rights still depends on strong legal frameworks, impartial enforcement, and institutions capable of preventing abuse.

Jack Donnelly challenges the simplistic and often misleading binary between positive and negative rights. He argues that the standard categorisation of civil and political rights as purely "negative", requiring only state non-interference, is reductive and ignores the complex realities of rights implementation. Even these so-called negative rights necessitate robust institutional frameworks, legal infrastructure, and state-funded mechanisms to be effectively realised. For example, the right to a fair trial not only requires the state to refrain from arbitrary detention but also mandates the establishment of independent courts, provision of trained judges, legal aid, public defenders, and procedural safeguards. Thus, Donnelly emphasises that all rights, regardless of label, require both restraint and active support from the state and society to ensure their full enjoyment.

1.1.2.3 Characteristics of Human Rights

Human rights possess several defining characteristics that distinguish them from other types of rights or ethical entitlements. These features - universality, inalienability, indi-

❒ State action needed

❒ Freedom from interference

❒ Rights require both restraint and active support

visibility, and interdependence - form the normative and legal foundation for their recognition and enforcement across all cultures and legal systems. They underscore the premise that human rights are not selective, revocable, or separable; instead, they are interconnected guarantees that must be respected and implemented holistically to uphold the dignity and equality of every individual.

Universality

Human rights are universal in the truest sense; they apply equally and without exception to every individual, regardless of geographical, cultural, or political boundaries. This principle, enshrined in the Universal Declaration of Human Rights (UDHR), reinforces that these rights are not favours bestowed by governments, nor are they dependent on citizenship, legal status, or societal roles. Instead, they arise solely from one's humanity. The notion of universality rejects relativistic interpretations that limit rights based on cultural or national contexts, affirming instead that every person, by virtue of being human, is entitled to these rights under all circumstances.

Inalienability

Human rights are inalienable, meaning they cannot be taken away, forfeited, or transferred, regardless of the circumstances or the consent of the individual. They are intrinsic to human existence and persist independently of legal or political recognition. Although certain rights may be subject to lawful limitations under narrowly defined conditions, such as public emergencies, these restrictions must comply with strict international standards. They must never compromise the core of human dignity. Notably, some rights, such as the right to life, the prohibition of torture, and freedom from slavery, are considered non-derogable, meaning they remain inviolable even during states of emergency or armed conflict. This underscores the enduring and foundational character of human rights across all contexts.

Indivisibility

Human rights are indivisible, meaning that no right can be considered less important or secondary to any other. All rights, civil, political, economic, social, and cultural, are equally vital to preserving human dignity and ensuring a just and humane society. For instance, the right to freedom of speech is no less significant than the right to education or health. Efforts to elevate one category of rights at the expense of others can lead to

systemic inequalities and partial justice. Recognising the indivisibility of rights means understanding that the full realisation of one right often hinges on the protection and fulfilment of others, reinforcing the holistic and integrated nature of the human rights framework.

Interdependence and Interrelatedness

Human rights are inherently interconnected, meaning the realisation of one right often facilitates or reinforces the fulfilment of others. This principle highlights that no right exists in isolation. For example, access to education is fundamental to exercising the right to work and participate in civic life; similarly, the right to health is contingent upon rights to adequate housing, food, and environmental safety. Violations or neglect in one area frequently trigger a domino effect, undermining the enjoyment of other rights. Jack Donnelly emphasises that this interdependency necessitates a holistic approach to human rights protection, where efforts to uphold one right must be accompanied by attention to the broader network of rights that sustain human dignity and agency.

Clapham reinforces these characteristics by asserting that human rights should not be understood merely as legalistic obligations or codified statutes. Instead, they reflect the enduring moral values of human coexistence, equality, and justice that shape our social, political, and economic lives. Clapham emphasises that human rights are deeply embedded in everyday lived experiences, shaping how individuals interact with institutions and one another. Any effort to segment, prioritise, or rank these rights not only distorts their essence but also weakens the structural fabric that holds together the pursuit of human dignity and justice in society. With a clear view of the core characteristics, it is equally important to explore the various types and beneficiaries of human rights to appreciate their practical implementation.

The Curious Case of Eleanor Roosevelt: First Lady of Human Rights?

Did you know that Eleanor Roosevelt, the former First Lady of the United States, chaired the drafting committee of the Universal Declaration of Human Rights (UDHR)?

Known for her activism and moral clarity, she famously stated: *"Where, after all, do universal human rights begin? In small places, close to home…"*

Her leadership helped transform post-war outrage into a practical document that continues to shape global human rights debates today.

1.1.3 Generations of Human Rights

1.1.3.1 Civil and Political Rights (First-Generation)

Often referred to as first-generation rights, civil and political rights protect the individual's autonomy, liberty, and participation in public life. These rights serve as safeguards against state overreach, ensuring the individual's freedom to engage in civic and political processes without fear or coercion. They include the right to life and personal security, freedom from torture and arbitrary arrest, freedom of expression and religion, the right to vote and stand for election, and the right to a fair and public trial. These rights are central to liberal democratic traditions and are enshrined in key legal instruments such as the International Covenant on Civil and Political Rights (ICCPR). Importantly, their implementation not only demands restraint by the state but also active institutional support, such as independent courts, free media, and transparent electoral systems, to guarantee their meaningful realisation.

❏ First Generation Rights

1.1.3.2 Economic, Social, and Cultural Rights (Second-Generation)

These second-generation rights are crucial for ensuring the material and developmental foundations of human dignity. They include the rights to work under just and favourable conditions, access quality education and lifelong learning, enjoy the highest attainable standard of physical and mental health, benefit from social security and adequate living standards, and participate in the cultural life of the community. Enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR), these rights impose positive obligations on states to actively pursue policies and allocate resources to realise them progressively. Their fulfilment is indispensable for the exercise of civil and political rights, reinforcing the indivisibility and interdependence of all human rights. Moreover, these rights acknowledge that freedom without access to necessities remains hollow, especially for marginalised populations.

❏ Second Generation Rights

Can You Demand Housing, Food, or Work as a Right?

Yes, in some countries, economic and social rights are justiciable. In South Africa's landmark Grootboom case (2000), the Constitutional Court ruled that the government had a duty to provide basic shelter for people living in dire conditions. The ruling turned socio-economic rights, often seen as aspirational, into enforceable obligations. It showed that dignity and survival are as central to human rights as freedom and equality.

1.1.3.3 Solidarity Rights (Third-Generation)

These rights represent a collective dimension of human rights that transcends national borders and requires coordinated international action. Unlike first- and second-generation rights, which are primarily individual in nature, solidarity rights recognise that certain challenges, such as global inequality, climate change, armed conflict, and pandemics. These demand responses go beyond the capacity of individual states. They encompass the right to development, the right to peace, the right to a clean and sustainable environment, the right to access humanitarian assistance, and increasingly, the right to benefit from shared scientific progress and global technologies. Although many of these rights are not yet codified in binding legal instruments, they reflect a growing global moral consensus. They are gaining recognition in soft law instruments, UN declarations, and the advocacy of civil society and transnational networks. As the world becomes increasingly interdependent, solidarity rights underscore the ethical and practical imperative of global cooperation to ensure the well-being of both current and future generations.

❐ Collective Aspirations

Andrew Clapham notes that while the categorisation of human rights into generational groupings, civil and political, economic, social and cultural, and solidarity rights, can offer a helpful analytical framework, it must not obscure their inherently holistic and interdependent nature. He argues that the artificial separation of rights risks undermining the comprehensive understanding required for their effective realisation. In practice, the full enjoyment of any one right often necessitates the fulfilment of others, and neglecting one domain can compromise the effectiveness of the entire human rights regime. Clapham thus advocates for an integrated and balanced approach that treats all categories of rights as equally essential to building a just, inclusive, and equitable society.

❐ Comprehensive understanding of rights

1.1.4 Emerging Trends and Evolving Interpretations

Human rights are not fixed or static; they are dynamic constructs that continually evolve in response to shifting social norms, evolving political realities, technological advancements, and environmental pressures. As global consciousness deepens and humanity encounters new ethical and legal frontiers, the understanding and articulation of human rights expand accordingly. This evolution reflects both the adaptability of the human rights framework and its moral responsiveness to

emerging forms of injustice and marginalisation. New generations of rights have begun to take shape, responding to contemporary issues that earlier human rights doctrines could not have fully anticipated.

1.1.4.1 Digital Rights

Digital rights refer to the extension of human rights into the digital realm, encompassing the right to privacy online, freedom of expression in digital spaces, equitable access to information and the internet, and protection from unlawful digital surveillance and data misuse. In a world increasingly mediated by technology, these rights ensure that individuals maintain control over their digital identities and data. Key concerns include algorithmic bias, online censorship, digital exclusion, cybersecurity threats, and the responsibilities of tech companies and governments in safeguarding digital freedoms. The promotion of digital rights is essential for preserving democratic values and human dignity in the information age.

Case Study – Justice K.S. Puttaswamy (Retd) v. Union of India (2017): Right to Privacy as a Fundamental Right

In 2017, a nine-judge bench of the Supreme Court of India unanimously ruled that the right to privacy is a fundamental right under Article 21 (Right to Life and Personal Liberty) of the Constitution. This case arose in the context of the Aadhaar biometric identification system and concerns about mass surveillance. The judgment is significant because it shows how digital rights and data protection are now integral to human dignity and autonomy. The Court drew on Natural Rights Theory, affirming privacy as an inherent entitlement of human beings, while also addressing Postmodern critiques by acknowledging the risks of state and corporate power in digital governance. It is a landmark in India's legal evolution, linking constitutional rights to the new challenges posed by technology and surveillance.

1.1.4.2 Rights related to Artificial Intelligence (AI)

As AI technologies increasingly influence critical decisions across healthcare, employment, finance, social services, and law enforcement, there is a growing demand for new human rights standards to address these developments. Concerns include algorithmic bias, lack of transparency in decision-making, erosion of accountability, and potential violations of privacy and equality. Consequently, human rights advocates em-

phasise the need for algorithmic accountability, explainability, fairness, and robust human oversight. These rights aim to ensure that automated systems respect human dignity, do not reinforce discrimination, and remain subject to ethical and legal scrutiny.

Can Artificial Intelligence Discriminate?

Absolutely. Algorithms trained on biased data can reinforce or worsen existing inequalities. For example, facial recognition systems have been shown to misidentify people of colour more often, and some AI recruitment tools have excluded women or minorities based on flawed logic. These issues are leading to calls for algorithmic transparency and digital rights. In the 21st century, protecting human rights means holding even the *machines* accountable.

1.1.4.3 Environmental and Climate Rights

The right to a clean, healthy, and sustainable environment is gaining widespread recognition as a fundamental human right, essential not only to life and health but also to the enjoyment of many other rights. Environmental degradation, pollution, and climate change pose significant threats to the rights to water, food, shelter, and health. This category of rights calls upon states and international bodies to ensure ecological sustainability, prevent environmental harm, promote environmental justice, and protect biodiversity. The growing acknowledgement of climate justice further emphasises that vulnerable and marginalised communities often bear the brunt of environmental damage, making it imperative to embed environmental rights within the broader human rights agenda.

❏ Climate justice

Case Study – Urgenda Foundation v. The Netherlands (2015): Climate Justice in Court

In 2015, the Dutch Supreme Court in *Urgenda Foundation v. The State of the Netherlands* ordered the government to reduce greenhouse gas emissions by at least 25% (compared to 1990 levels) by 2020. This was the first time in the world that a court held a government legally accountable for its insufficient action against climate change. The case demonstrates how solidarity rights and intergenerational justice are being judicially recognised. It reflects Rationalist approaches, since the ruling grounded climate obligations in legal principles of duty and fairness. Above all, it shows that environmental degradation is not only an ecological concern but a human rights violation, especially for future generations.

1.1.4.4 Rights of Future Generations

Increasing global concern over environmental degradation, resource depletion, and irreversible ecological damage has prompted growing discourse on the rights of unborn or future generations. These discussions assert that future people, those not yet born, should be entitled to a safe, healthy, and viable planet. The concept of intergenerational justice demands that current generations act as stewards of the Earth, ensuring that policies on climate change, biodiversity, and sustainable development do not compromise the ability of future generations to meet their needs. Though not yet codified in binding legal frameworks, these emerging rights are gaining traction in international declarations and environmental advocacy movements, reinforcing the moral imperative to incorporate long-term thinking into human rights discourse.

❐ Intergenerational ethics

The evolutionary nature of rights is explicitly recognised in the preamble of the Universal Declaration of Human Rights (UDHR), which underscores the commitment to their progressive realisation. This acknowledgement reflects an understanding that human rights must adapt to new realities and respond to emerging forms of injustice over time. It mirrors the dynamic interplay between evolving global values and mechanisms of international governance, such as treaty development, legal jurisprudence, and the tireless advocacy of civil society and grassroots movements. Together, these forces expand the frontiers of human rights and ensure their relevance in a constantly changing world.

❐ Evolution

Andrew Clapham emphasises that human rights law is not static but is continually reshaped by shifting moral values, evolving public consciousness, and the sustained efforts of grassroots and global social movements. He highlights how previously overlooked or marginalised issues, such as domestic violence, LGBTQ+ rights, disability rights, and gender identity, have progressively entered the domain of human rights due to increased societal awareness and advocacy. This evolving nature illustrates the human rights framework's capacity to respond to emerging injustices and to expand its protective scope in alignment with changing ethical norms and lived realities.

❐ Adaptation

Summarised Overview

Unit 1 provides an in-depth and multidimensional foundation for understanding human rights by exploring their meaning, philosophical grounding, core characteristics, evolving interpretations, and broad scope. Grounded in the intrinsic dignity and equality of all individuals, human rights are recognised as universal, inalienable, indivisible, and interdependent. They transcend cultural and political boundaries, offering a shared moral and legal framework that protects freedom, equality, security, and well-being. The unit also underscores that these rights are not static but evolve in response to changing global realities, emphasising their enduring relevance in both theory and practice.

Whether articulated by international institutions such as the United Nations, explored through scholarly interpretations like those of Donnelly and Clapham, or advanced by the persistent efforts of grassroots and global human rights movements, human rights endure as a dynamic moral and legal framework. Their vitality depends on continuous protection, critical reflection, and responsive implementation through robust legal systems, democratic institutions, inclusive education, and civic engagement. This ongoing process ensures that human rights remain effective instruments for safeguarding dignity and justice in an ever-changing world.

As global societies continue to confront inequality, conflict, and ecological degradation, the transformative potential of human rights remains more vital than ever. As societies evolve, so too must the understanding, application, and interpretation of human rights. They are not static doctrines confined to the past, but dynamic, forward-looking instruments that guide legal systems, inform inclusive public policy, and inspire civic participation. Rooted in shared values of dignity, equity, and justice, human rights serve as practical frameworks for shaping inclusive, peaceful, and humane societies in an ever-changing world.

Self-Assessment

1. Define human rights in your own words.

2. List and explain two characteristics of human rights.

3. Distinguish between civil-political rights and economic-social rights with examples.

4. What are solidarity rights? Give two examples.

5. What is meant by digital rights?

6. In a digital world, what new rights do you think we need to protect?

7. Should states prioritise some rights over others? Why or why not?

Assignment Questions

1. Analyse the three generations of human rights and critically evaluate their relevance in today's global context.

2. Choose one emerging rights issue (e.g., AI, climate justice, or digital rights) and discuss how it challenges existing human rights frameworks.

3. Study a recent national or international legal case related to a human right (e.g., right to privacy or environmental protection) and write a brief report evaluating the court's reasoning from a human rights perspective.

Reference

1. Clapham, A. (2015). *Human rights: A very short introduction*. Oxford University Press.

2. Donnelly, J. (2013). *Universal human rights in theory and practice* (3rd ed.). Cornell University Press.

3. Smith, R. K. M. (2018). *Textbook on international human rights* (8th ed.). Oxford University Press.

4. United Nations. (1948). *Universal Declaration of Human Rights*. https://www.un.org/en/about-us/universal-declaration-of-human-rights

5. Office of the United Nations High Commissioner for Human Rights (OHCHR). (n.d.). *What are human rights?* https://www.ohchr.org/en/what-are-human-rights

Suggested Reading

1. Alston, P. (Ed.). (2008). *International human rights in context: Law, politics, morals*. Oxford University Press.

2. Amnesty International. https://www.amnesty.org

3. Human Rights Watch. https://www.hrw.org

4. UN Human Rights Treaties Database. https://treaties.un.org

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

UNIT 2

Historical Evolution of the Concept of Human Rights

Learning Outcomes

By the end of this unit, learners will be able to:

▶ explain the historical origins of the concept of human rights across civilisations and eras.

▶ identify and analyse key historical documents that laid the foundation for modern human rights.

▶ assess the contributions and limitations of landmark declarations such as the Magna Carta, the American Declaration of Independence, and the French Declaration of the Rights of Man and of the Citizen.

▶ evaluate the evolution of human rights thinking through abolitionist movements and early labour rights struggles.

▶ describe the significance of the Universal Declaration of Human Rights (1948) and subsequent international treaties.

▶ critically examine the institutionalisation and expansion of human rights discourse in the post-World War II global context.

Background

The notion of human rights is rooted in a long and complex historical journey that transcends geographical boundaries and cultural divides. Before the term "human rights" entered modern political and legal vocabulary, ancient societies and religious traditions laid the foundations for ideas of justice, fairness, and individual dignity. From the Code of Hammurabi to Buddhist teachings and Islamic legal traditions, early societies offered glimpses of the values that modern human rights would later codify. The birth of constitutional governance in medieval and early modern Europe played a critical role in crystallising these values into political institutions. Documents like the Magna Carta (1215) and the English Bill of Rights (1689) introduced fundamental principles such

as the rule of law and due process. These were followed by revolutionary declarations in America and France, where Enlightenment philosophy influenced the articulation of rights as natural and inalienable.

With the traumas of slavery, industrialisation, and global wars, the 19th and 20th centuries brought new understandings of rights that encompassed labour, social, and economic protections. The adoption of the Universal Declaration of Human Rights in 1948 signalled a landmark in global human rights consciousness, with subsequent decades expanding and institutionalising this vision through international covenants and regional human rights systems.

Keywords

Magna Carta, Natural Rights, Universal Declaration of Human Rights (UDHR), Abolitionism, Labour Rights, Post-war International Framework

Discussion

1.2.1 Introduction

The concept of human rights has developed through centuries of intellectual thought, social resistance, and institutional reform. Although the contemporary terminology of "human rights" emerged in the 20th century, the core principles it represents, such as the inherent dignity of persons, justice, and protection from oppression, have deep roots in ancient civilisations and religious traditions. From early legal codes to revolutionary declarations, diverse cultures and epochs have contributed to the emergence of human rights as a moral and legal ideal. This unit explores key historical landmarks that laid the groundwork for the global human rights framework we know today, each of which signifies an advance toward the universal acknowledgement of human dignity and equality.

❏ Human rights across civilisations

As Rhona Smith notes, the evolution of human rights is not a straightforward or uniform progression but a dynamic and adaptive process influenced by complex historical circumstances, such as political revolutions, shifts in economic systems, religious upheavals, and the devastation of global conflicts. Jack Donnelly complements this view by emphasising that although the language of universal human rights gained prominence only in the 20th century, earlier historical epochs

❏ Non-linear development

played a vital role in constructing the normative scaffolding of human dignity, justice, and equality that underpins modern human rights frameworks.

1.2.2 Development and Growth of Human Rights

The story of human rights is a story of humanity's long struggle for freedom, dignity, and justice. It did not emerge overnight but evolved gradually through centuries of social and political change. The earliest efforts, such as the Magna Carta (1215) and the English Bill of Rights (1689), sought to place limits on absolute power and establish the idea that even rulers must follow the law. During the Enlightenment, thinkers and revolutionaries in America and France transformed these ideas into bold declarations of liberty, equality, and the right of people to govern themselves. The 19th century then expanded the meaning of rights through major movements such as the abolition of slavery and the rise of labour rights, recognising that freedom must also include social and economic justice. Together, these developments mark the gradual evolution of human rights from privileges once enjoyed by a few to universal principles meant for all, ultimately laying the foundation for the Universal Declaration of Human Rights, which serves as the cornerstone of the global human rights framework today.

1.2.2.1 Early Foundations of Legal Rights: Magna Carta and Bill of Rights

Magna Carta (1215): Legal Constraint on Power

The Magna Carta, signed in 1215 by King John of England under pressure from rebellious barons, is widely considered a foundational document in the genealogy of modern human rights. While its original intent was to resolve a political crisis between the monarchy and the feudal elite, its broader significance lies in the introduction of key legal principles: the supremacy of law over the will of rulers, the right to a lawful judgment, and the notion that political authority should be restrained by legal norms. Though limited in scope and applying only to a narrow segment of society, the Magna Carta's legacy endures as a symbol of resistance against arbitrary rule and a precursor to the constitutional traditions that underpin contemporary human rights law.

The Magna Carta enshrined the revolutionary concept that all individuals, including monarchs, are subject to the rule of law. This principle challenged the notion of absolute royal authority

❐ Constraints on monarchy

and laid the foundation for modern constitutional governance. It underscored that laws must apply equally to all, ensuring predictability, fairness, and legal accountability, cornerstones of contemporary democratic systems.

Clause 39 of the Magna Carta, "No free man shall be seized or imprisoned... except by the lawful judgment of his equals or by the law of the land", laid the groundwork for the principle of due process, now central to modern legal systems. This early articulation emphasised that individuals could not be punished arbitrarily and must be judged according to established legal procedures. Though initially intended for a narrow segment of society, the clause introduced the vital notion that legal proceedings should be fair, impartial, and subject to review, principles that underpin the contemporary right to a fair trial and legal equality.

However, as Andrew Clapham highlights, the protections offered by the Magna Carta were both narrow in scope and socially exclusive. They applied primarily to a privileged class of land-owning nobles, while women, peasants, serfs, and the vast majority of the population remained unprotected by its provisions. Despite these limitations, the symbolic and philosophical value of the Magna Carta endures. It signified a profound shift in the conception of political authority, laying the foundation for principles that would echo through centuries of legal and political development aimed at curbing arbitrary power and advancing the rule of law.

Magna Carta: Medieval Justice or Barons' Bargain?

The Magna Carta (1215) is often celebrated as a foundational human rights document. But here's the twist - it was primarily a political agreement between King John and feudal barons, not a declaration of equality for all. The famous clause -*"No free man shall be... imprisoned... except by the lawful judgment of his equals"* - was originally meant to protect elite landowners.

Still, over centuries, this medieval deal evolved into a symbol of *due process*, inspiring constitutional democracies across the globe.

English Bill of Rights (1689): Towards Constitutional Governance

Following the Glorious Revolution of 1688, the English Bill of Rights of 1689 became a seminal document in the development of constitutional governance. It institutionalised a balance of power by formally limiting the authority of the monarchy

and reinforcing the supremacy of Parliament. More than a response to political unrest, the Bill of Rights articulated foundational principles that would influence modern liberal democracies, such as the rule of law, representative government, and the protection of civil liberties:

The English Bill of Rights introduced protections against cruel and unusual punishments, arbitrary detentions, and excessive bail, while also affirming the right of individuals to petition the monarchy without fear of retribution. These provisions laid the groundwork for modern protections of personal freedoms and influenced the development of constitutional rights in democratic societies.

The Bill of Rights reaffirmed the centrality of parliamentary supremacy, mandating regular sessions of Parliament and emphasising the importance of free elections. It also protected freedom of speech within parliamentary proceedings—a principle that continues to underpin representative democracy. These provisions helped institutionalise the idea that political power must be exercised through mechanisms that are accountable and participatory.

According to Rhona Smith, the 1689 Bill of Rights marked a vital step in embedding individual rights within a constitutional framework, setting precedents for legal accountability and civic freedoms. However, its scope was narrow and exclusionary - primarily benefiting Protestant, property-owning men. Catholics, nonconformists, women, and the economically disenfranchised were largely excluded from its protections, revealing the limitations of early rights instruments in achieving true universality.

Despite these exclusions, the English Bill of Rights marked a significant transformation in governance, ushering in a new era where political legitimacy derived not from divine authority but from legal principles and institutional checks. It symbolised the transition from feudal contracts and autocratic rule to representative constitutionalism grounded in the recognition of individual rights and civic participation.

1.2.2.2 Enlightenment and Revolutionary Ideals

The American Declaration of Independence (1776): Inalienable Rights

The Declaration of Independence, drafted primarily by Thomas Jefferson in 1776, was a landmark assertion of in-

❑ Limiting royal power

❑ Civil Liberties

❑ Parliamentary Supremacy and Political Representation

❑ Exclusion of many

❑ Democratic transition

dividual liberty and natural rights, deeply shaped by Enlightenment philosophy, particularly the social contract theory of John Locke. It declared that "all men are created equal" and are endowed with "unalienable rights" such as life, liberty, and the pursuit of happiness. These principles challenged monarchic rule and colonial subjugation, laying the ideological foundation for modern democratic governance rooted in popular sovereignty and individual dignity.

□ Assertion of natural rights

The Declaration introduced the revolutionary idea that rights are not privileges granted by rulers but are inherent, inalienable entitlements of every individual by virtue of being human. Rooted in Enlightenment natural law philosophy, this concept asserts that all people possess these rights equally, transcending nationality, race, religion, or social status. It laid a moral and philosophical foundation that would resonate in subsequent human rights documents and inspire global struggles for equality and justice.

□ Natural Rights and Moral Universality

The Declaration advanced the principle that legitimate governments derive their authority from the consent of the governed and have a fundamental duty to protect the natural rights of their citizens. This marked a decisive break from divine-right monarchy and established popular sovereignty as a core foundation of democratic rule, reinforcing the notion that political power must serve, not dominate, the people.

□ Popular Sovereignty and Political Legitimacy

Jack Donnelly observes that the Declaration of Independence helped globalise the moral discourse of human rights by emphasising their inherent and inalienable nature. However, he also critiques its limited practical reach at the time of its adoption, highlighting that enslaved African Americans, Indigenous populations, and women were systematically denied the very rights the document proclaimed. Nevertheless, its philosophical significance, establishing rights as pre-political, universal entitlements, served as a foundational model for future human rights instruments, both national and international.

□ Ideals versus reality

The Philosopher Who Started a Rights Revolution-But Owned Slaves

Thomas Jefferson, the principal author of the American Declaration of Independence, boldly wrote that "all men are created equal." Yet, he was a slaveholder. This paradox is a stark reminder that human rights ideals often outpaced the realities of their time, and that progress has always required uncomfortable reflection and activism.

French Declaration of the Rights of Man and of the Citizen (1789): Revolutionary Humanism

Inspired by the revolutionary spirit of the American Declaration of Independence and the rational humanism of Enlightenment thinkers such as Rousseau and Montesquieu, the French Revolution gave rise to the Declaration of the Rights of Man and of the Citizen in 1789. This landmark document asserted liberty, equality, and fraternity as foundational ideals of the new French Republic, marking a radical departure from monarchical and feudal traditions and establishing a framework for secular, rights-based citizenship.

The Declaration proclaimed that all citizens are equal before the law, thereby directly confronting and dismantling the hierarchical privileges of the aristocracy and the monarchy. This principle signalled a transformative shift toward egalitarian legal systems, where rights and responsibilities are defined not by birth or social rank but by common citizenship under a unified legal framework. It laid a crucial foundation for the modern concept of legal equality and non-discrimination.

The Declaration emphasised the establishment of a state grounded in popular sovereignty and rational law rather than religious doctrine. By advocating for secular legal systems, it curtailed the influence of the church in legislative and judicial matters, paving the way for a citizenship-based governance model rooted in equality, civic participation, and universal legal standards.

Andrew Clapham observes that the Declaration marked a crucial departure from monarchic benevolence by grounding rights in the very nature of personhood and citizenship rather than in the will of the sovereign. It introduced a new vision of state-society relations, in which individuals are entitled to rights by virtue of their human status. However, Clapham also critiques its practical limitations: the document excluded women, denied full participation to marginalised groups, and allowed revolutionary fervour to justify curtailing rights in the name of national security. These contradictions illustrate the tension between the Declaration's ideals and their selective application during times of political upheaval.

Despite its limitations, the Declaration served as a critical ideological springboard for constitutional development across Europe and beyond. It embedded the principles of popular sovereignty, legal equality, and civic rights into the fabric of mod-

❏ Revolutionary step

❏ Equality before Law

❏ Secularism and Popular Sovereignty

❏ Inclusion-exclusion tension

ern democratic governance. As a precursor to contemporary ideas of active citizenship and inclusive political participation, its influence persists in national charters, human rights declarations, and democratic reform movements worldwide.

The French Declaration's Most Unlikely Hero: A Woman with a Pen

Olympe de Gouges, a playwright and activist during the French Revolution, responded to the 1789 Declaration of the Rights of Man and of the Citizen with her own version: *The Declaration of the Rights of Woman and of the Female Citizen (1791)*. Her demand for gender equality was radical - and deadly. She was guillotined for her ideas. Today, she is recognised as a feminist pioneer who tried to expand human rights when the Revolution wouldn't.

1.2.2.3 Nineteenth-Century Advances: Abolition and Labour Rights

The 19th century brought important, though uneven, advancements in human rights. One of the most significant achievements was the abolition of slavery, driven by transnational moral, religious, and humanitarian campaigns. The abolitionist movement, spanning Britain, the U.S., and France, mobilised public opinion, literature, and legal arguments to challenge slavery as a violation of human dignity. Landmark victories included the Slavery Abolition Act (1833) in Britain, which emancipated enslaved people throughout the British Empire, and the 13th Amendment (1865) in the United States, which constitutionally abolished slavery and involuntary servitude. These developments underscored the growing international recognition that freedom from enslavement is a fundamental human right.

At the same time, the Industrial Revolution dramatically altered the economic and social fabric of society, giving rise to exploitative labour practices that spurred calls for the protection of workers. Concerns over harsh working conditions, long hours, child labour, and workplace accidents led to the emergence of early labour movements and reforms. The development of labour laws, such as limitations on working hours, minimum wage legislation, workplace safety standards, and the prohibition of child labour, signalled the nascent recognition of economic and social rights. These rights emphasised the state's responsibility to ensure humane working conditions and equitable economic participation, laying the foundation for broader social justice agendas in the 20th century.

Donnelly argues that the 19th century marked a significant evolution in the human rights discourse, extending the scope beyond traditional civil and political liberties to embrace the imperatives of social justice and economic protections. This shift anticipated the modern understanding of human rights as an interconnected and multidimensional framework that encompasses not only freedoms from state interference but also positive entitlements to fair labour, education, and social welfare - elements that remain central to contemporary human rights debates and practices.

1.2.3 UDHR: Globalisation of Human Rights

The unprecedented atrocities of World War II, including genocide, mass displacement, and systemic repression, created an urgent moral and political imperative for a universal framework to protect human dignity. In response, the Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly in 1948. This landmark document represented a global affirmation of the inherent rights of all individuals, irrespective of race, nationality, gender, or belief. It marked a historic shift from state-centric notions of sovereignty to the recognition of the individual as a subject of international concern, laying the moral and normative foundation for the modern human rights movement.

The UDHR recognises the full spectrum of human rights- civil and political rights (such as freedom of speech and fair trial), alongside economic, social, and cultural rights (including education, health, and adequate living standards). This holistic approach underscores the indivisibility and interdependence of rights, affirming that true human dignity requires the realisation of all dimensions of rights for all people.

Rights are inherent to all human beings by virtue of their humanity and apply equally to everyone, regardless of nationality, race, gender, religion, language, or any other status. This principle affirms that human rights are neither conditional nor dependent on citizenship, political affiliation, or cultural background, but are universally applicable to all individuals worldwide.

The UDHR served as a blueprint for the International Bill of Human Rights, comprising the UDHR, ICCPR, and ICESCR, and inspired the drafting of numerous national constitutions and regional human rights instruments. Its principles have been

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❐ Emergence of social and economic rights

❐ Post-WWII imperative

❐ Comprehensive rights framework

❐ Universality and Global Influence

❐ Model for the world

incorporated into legal and constitutional frameworks worldwide, establishing a global benchmark for the recognition and protection of human dignity.

Rhona Smith emphasises that the UDHR, although not legally binding in itself, has achieved the status of customary international law through its consistent endorsement by states, incorporation into national constitutions, and citation in judicial decisions. Its widespread acceptance and normative influence have elevated it from a declaration of principles to a foundational reference point in international legal practice and state accountability.

Donnelly adds that the UDHR marked a transformative shift in international relations by articulating a universal set of moral and legal standards to which all states could be held accountable - not only in their external conduct but also in their domestic affairs. This development challenged the long-held principle of absolute state sovereignty, introducing a framework in which the treatment of individuals within a state's borders became a matter of legitimate international concern.

1.2.3.1 UDHR: Articles and Objectives

The Universal Declaration of Human Rights (UDHR) consists of a Preamble and 30 Articles that together lay down the essential rights and freedoms of every human being.

Articles of the UDHR

▶ Preamble: Describes the moral and historical context in which the Declaration was adopted. It affirms that recognising human dignity is the foundation of freedom, justice, and peace worldwide.

▶ Articles 1–2: Establish the core principles of equality, universality, and non-discrimination, asserting that all human beings are born free and equal in dignity and rights.

▶ Articles 3–21: Outline civil and political rights, including the right to life, liberty, security, fair trial, and privacy, freedom of thought, expression, movement, and participation in public affairs.

▶ Articles 22–27: Define economic, social, and cultural rights, such as the right to work, education, health, social security, and an adequate standard of living.

▶ Articles 28–30: Emphasise the responsibilities of individ-

□ Customary law status

□ Accountability shift

uals and states to respect, protect, and uphold the rights of others, reinforcing that rights come with duties toward society.

Core Objectives of the UDHR

1. To affirm the inherent dignity and equal worth of all human beings.

2. To provide a universal moral and legal framework for the protection of human rights.

3. To promote freedom from fear and want by ensuring a balance between liberty and social justice.

4. To serve as a guiding model for constitutions, laws, and international treaties.

5. To advance global peace, cooperation, and respect for the rule of law.

While the UDHR laid down universal principles, it was not legally binding. To give these ideals practical legal force, the United Nations adopted two major covenants in 1966:

1. The International Covenant on Civil and Political Rights (ICCPR)

2. The International Covenant on Economic, Social and Cultural Rights (ICESCR)

Together with the Universal Declaration of Human Rights (UDHR), these two covenants - ICCPR and ICESCR - form the International Bill of Human Rights. These instruments transformed the UDHR's moral vision into enforceable international law by defining specific legal obligations for governments to respect, protect, and fulfil a comprehensive range of human rights. They cover both civil and political freedoms, such as expression and political participation, and economic, social, and cultural rights, including education, health, and an adequate standard of living, thereby giving universal human rights a concrete legal foundation.

The Curious Case of Eleanor Roosevelt: First Lady of Human Rights?

Did you know that Eleanor Roosevelt, the former First Lady of the United States, chaired the drafting committee of the Universal Declaration of Human Rights (UDHR)? Known for her activism and moral clarity, she famously stated:

> *"Where, after all, do universal human rights begin? In small places, close to home…"*

Her leadership helped transform post-war outrage into a practical document that still shapes global human rights debates today.

A Declaration Written in 48 Languages—But Not One Signature

The Universal Declaration of Human Rights (UDHR) was adopted in 1948, but did you know that it was never signed? Unlike treaties, it is not a legally binding document. Yet, it has inspired over 80 international human rights treaties and declarations and is translated into more than 500 languages - the most translated document in the world.

Rights That Laugh Back

Fun Fact: The *right to leisure* is actually part of international human rights! Article 24 of the UDHR states that everyone has the right to rest and leisure, including the right to reasonable working hours and paid holidays. Next time someone jokes about needing a vacation as a basic right, tell them - **it's enshrined in international law!**

Box: When India Voted 'Yes' to Universal Rights -With a Personal Touch

India played a proactive role in the drafting of the UDHR. Hansa Mehta, the Indian delegate, argued strongly for the use of the phrase "all human beings are born free and equal" instead of "all men are born free and equal." Thanks to her, the document speaks in the voice of gender equality - a quiet but powerful amendment from history.

1.2.4 International Covenants: ICCPR and ICESCR

❑ International Covenants and Treaties

In the aftermath of the UDHR's adoption in 1948, the international community embarked on a significant phase of institutional development and legal codification to solidify human rights as enforceable global standards. This period marked a shift from aspirational declarations to the creation of binding treaties, oversight mechanisms, and thematic expansions that collectively formed the architecture of the modern human rights regime. The adoption of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 1966 represented a major step in transforming the aspirational

principles of the UDHR into binding international law.

International Covenant on Civil and Political Rights (IC-CPR)

The **ICCPR** translates the civil and political rights of the UDHR into enforceable legal commitments. It focuses on protecting individual freedoms and limiting **state power.**

Key features and rights include:

▶ The right to life, liberty, and security of person (Art. 6–9)

▶ Freedom from torture, slavery, and arbitrary detention (Art. 7–8)

▶ The right to a fair trial and due process (Art. 14)

▶ Freedom of thought, conscience, religion, expression, and association (Art. 18–22)

▶ The right to political participation, including voting and holding office (Art. 25)

▶ Minority rights, including linguistic, cultural, and religious freedoms (Art. 27)

The ICCPR established the Human Rights Committee (HRC) to monitor implementation through periodic state reports and individual complaints (under the First Optional Protocol). This marked a significant advancement in international accountability, as individuals gained the ability to petition a UN body for redress.

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

The ICESCR complements the ICCPR by giving equal weight to the social and economic dimensions of human dignity. It obligates states to take progressive steps toward the full realisation of these rights, recognising that they may depend on available resources but must always be pursued in good faith.

Key rights under the ICESCR include:

▶ The right to work and just conditions of employment (Art. 6–7)

▶ The right to form and join trade unions (Art. 8)

- The right to social security and social protection (Art. 9)
- The right to family life, motherhood, and childhood protection (Art. 10)
- The right to an adequate standard of living, including food, clothing, and housing (Art. 11)
- The right to the highest attainable standard of health (Art. 12)
- The right to education and cultural participation (Art. 13–15)

The Committee on Economic, Social and Cultural Rights (CESCR) oversees the implementation of the ICESCR, evaluating state performance through periodic reporting and providing authoritative interpretations via General Comments.

The adoption of the ICCPR and ICESCR reaffirmed the UDHR's vision that all rights are interdependent and indivisible. Civil and political rights cannot be meaningfully exercised without social and economic security, and vice versa. For instance, the right to free speech is hollow without education, and the right to vote loses meaning without freedom from poverty or hunger. Together, these three instruments established a comprehensive legal and ethical framework for global human rights protection, striking a balance between freedom and equality, liberty and justice, and individual rights and social responsibility.

Comprehensive rights framework

1.2.5 Global Impact and Continuing Relevance

Since its adoption in 1948, the Universal Declaration of Human Rights (UDHR), along with the International Covenants, has profoundly influenced global governance and the evolution of international law. It has inspired the drafting of national constitutions and regional charters such as the European Convention on Human Rights and the African Charter on Human and Peoples' Rights. It has led to the creation of international monitoring bodies and tribunals. These instruments also energised global movements for gender equality, racial justice, and sustainable development. As Rhona K. M. Smith (2022) observes, the UDHR and its covenants have achieved the status of customary international law through their consistent acceptance in state practice and judicial interpretation. Jack Donnel-

Global Influence

ly (2013) further notes that they redefined sovereignty itself by establishing the protection of human rights as a legitimate concern of the international community.

To ensure compliance with these standards, a network of international and regional institutions has emerged. The UN Human Rights Council investigates violations and issues recommendations. At the same time, regional courts such as the European Court of Human Rights, the Inter-American Court of Human Rights, and the African Court on Human and Peoples' Rights provide legal remedies. Treaty-monitoring bodies, including the Human Rights Committee, review state reports and assess adherence to treaty obligations.

❑ Monitoring Mechanisms

The post-1948 era also saw an expansion of human rights discourse. Specialised conventions, such as the Convention on the Elimination of Discrimination against Women (CEDAW) (1979), the Convention on the Rights of the Child (CRC) (1989), and the UN Declaration on the Rights of Indigenous Peoples (2007), have recognised the distinct needs of women, children, refugees, and indigenous peoples. At the same time, environmental rights gained prominence, linking ecological sustainability with the realisation of fundamental rights to health, housing, and life. This broadening of the human rights agenda reflects a growing commitment to addressing structural inequality, cultural identity, and the well-being of the planet.

❑ Expanded Rights

As Andrew Clapham highlights, this period marked not only the proliferation of human rights norms but also a transformation in their purpose. Rights came to be understood not merely as protections against state abuse but as instruments of empowerment, enabling individuals and communities to participate actively in social, economic, and political life. This shift underscores the vital role of human rights in fostering equity, sustainable development, and social justice.

❑ Empowerment Shift

Summarised Overview

The historical trajectory of human rights illustrates a progressive and multifaceted struggle to articulate, institutionalise, and safeguard the inherent dignity of all individuals. Beginning with the Magna Carta's initial constraints on monarchical power, through revolutionary declarations in the 18th century, to the UDHR's universal affirmation of equality and freedom, human rights have undergone a profound transformation - from the exclusive privileges of a few to globally endorsed standards that seek to protect all members of humanity, regardless of status or circumstance.

However, this is not a finished story. Jack Donnelly cautions that human rights remain a "work in progress," susceptible to erosion, manipulation, and redefinition in response to changing political and social climates. To maintain their relevance and integrity, human rights require vigilant advocacy, robust legal protections, and ongoing cultural engagement that reinforces their moral and universal foundations. Only through such sustained efforts can the promises of human dignity, equality, and freedom be realised for future generations.

As future practitioners, learners must recognise human rights not merely as abstract principles but as vital instruments for confronting contemporary global challenges. Rooted in historical struggles for justice and equality, human rights offer a flexible,evolving vocabulary for addressing issues such as digital surveillance, climate injustice, systemic discrimination, and the erosion of democratic norms. To remain meaningful, these rights must be continually asserted, interpreted, and expanded through collective action, legal innovation, and critical reflection.

Self-Assessment

1. What is the historical significance of the Magna Carta in the evolution of human rights?

2. How did the Enlightenment influence the American and French declarations?

3. What were the major contributions of the 19th-century abolition and labour rights movements to human rights discourse?

4. Why is the Universal Declaration of Human Rights (1948) considered a global milestone?

5. Discuss how the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) transformed the aspirational principles of the UDHR into binding international law.

6. Describe two ways in which human rights have expanded since 1948.

Assignments

1. Choose any one of the following: Magna Carta (1215), American Declaration of Independence (1776), or the French Declaration of the Rights of Man and of the Citizen (1789). Prepare a critical analysis addressing the historical context, key principles enshrined, limitations of the document, its influence on later human rights developments.

2. Discuss the shift from civil-political rights to social and economic rights in the 19th and 20th centuries. How did global events influence this expansion? Use examples such as abolition of slavery, labour rights reforms, or post-war declarations.)

3. Analyse the Evolution of the International Bill of Human Rights" Examine the relationship between the UDHR, ICCPR, and ICESCR in forming the International Bill of Human Rights.

Reference

1. Donnelly, J. (2013). *Universal Human Rights in Theory and Practice* (3rd ed.). Cornell University Press.

2. Clapham, A. (2015). *Human Rights: A Very Short Introduction*. Oxford University Press.

3. Smith, R. K. M. (2018). *Textbook on International Human Rights* (8th ed.). Oxford University Press.

4. UN Declaration (1948) full text (https://www.un.org/en/universal-declaration-human-rights) / *The Universal Declaration of Human Rights – History of Document*

Suggested Reading

1. Moyn, S. (2010). *The Last Utopia: Human Rights in History.* Harvard University Press.

2. Ishay, M. (2008). *The History of Human Rights: From Ancient Times to the Globalisation Era.* University of California Press.

3. Lauren, P. G. (2011). *The Evolution of International Human Rights: Visions Seen.* University of Pennsylvania Press.

4. Freeman, M. (2017). *Human Rights: An Interdisciplinary Approach* (3rd ed.). Polity Press.

5. United Nations: https://www.un.org/en/about-us/universal-declaration-of-human-rights

6. OHCHR E-Library: https://www.ohchr.org/en/library

7. Human Rights Watch World Reports: https://www.hrw.org/publications

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

UNIT 3

Theories and Approaches of Human Rights

Learning Outcomes

By the end of this unit, learners will be able to:

▶ explain the relevance of theoretical approaches to the study and application of human rights.

▶ compare key theories of human rights, including Natural Rights Theory, Utilitarianism, Rationalist and Legal Positivist approaches, Marxist critiques, Third World Critiques, Feminist Critiques and Postmodern critiques.

▶ critically evaluate the strengths and limitations of each theory in explaining the foundations and applications of human rights.

▶ apply theoretical perspectives to real-world human rights issues and policy debates.

▶ demonstrate an understanding of theoretical pluralism and its importance in contemporary rights discourse.

Background

Human rights, as expressed through constitutions, international conventions, and legal instruments, are often regarded as universal and inviolable guarantees of human dignity. Yet, beneath these widely accepted formulations lies a rich field of philosophical reflection and political contestation. Theories of human rights serve as the intellectual foundation for understanding why such rights exist, how they evolve, and how they are interpreted across time and culture. From the moral assertions of natural law thinkers to the pragmatic approaches of utilitarians, and from the institutional focus of legal positivists to the critical perspectives of Marxist, Third World, and feminist scholars, these theories provide diverse lenses for analysing power, justice, and equality. Each framework illuminates a different dimension of human rights - whether as inherent moral entitlements, tools for collective welfare, instruments of law, or sites of political struggle and transformation.

Engaging with these theoretical perspectives is not merely an academic exercise. It equips learners to critically assess the strengths and limitations of contemporary human rights practices, to recognise hidden structures of inequality, and to envision more inclusive, context-sensitive approaches. Understanding the theoretical underpinnings of human rights thus helps bridge the gap between abstract ideals and real-world struggles for justice.

Keywords

Natural Rights, Utilitarianism, Legal Positivism, Marxist Critique, Third World, Feminism, Postmodernism, Theoretical Pluralism

Discussion

1.3.1 Introduction: Why theories matter

Understanding human rights requires a more profound exploration beyond their legal definitions or historical milestones. It necessitates engaging with the theoretical foundations that lend moral legitimacy and critical perspective to the idea of rights. These theories help us understand not only why rights are important but also how they originate, evolve, and operate across different social and political contexts. By examining various theoretical approaches, learners can appreciate both the normative aspirations and practical challenges involved in realising human rights in an interconnected and unequal world.

❐ Role of theory in human rights discourse

Jack Donnelly underscores that theories are not optional add-ons but essential tools for navigating the intricate terrain of universal human rights. Far from offering uniform answers, different theoretical frameworks challenge us to reconsider the foundations, applications, and limitations of rights across varied historical and cultural landscapes. This unit engages with five key perspectives - Natural Rights Theory, Utilitarianism, Rationalist and Legal Positivist Approaches, Marxist Critiques, Third World Critiques, Feminist Critiques and Postmodern Critiques - each of which sheds light on distinct aspects of the human rights discourse. Together, they broaden our understanding and enrich our critical engagement with rights as both ideals and instruments of justice.

❐ Theories as interpretive tools

1.3.2 Natural Rights Theory: Inherent and Universal Rights

Natural rights theory posits that every human being possesses certain fundamental rights solely by virtue of their humanity. These rights are considered intrinsic, timeless, and not derived from any governmental or institutional authority. They exist before and independently of political systems or legal enactments, reflecting a belief in a moral order that transcends historical and cultural boundaries. Advocates argue that such rights are universal and inalienable, forming the moral foundation of modern human rights frameworks.

1.3.2.1 Key Thinkers and Ideas

▶ **John Locke**: In his *Second Treatise of Government* (1689), John Locke contended that all individuals are born into a "state of nature" endowed with inalienable rights to life, liberty, and property. These natural rights are not granted by governments but are inherent to human existence. According to Locke, political authority is legitimate only if it arises from the consent of the governed and exists to safeguard these fundamental rights. When a government becomes destructive of these ends - through tyranny, neglect, or abuse - the people not only have a right but a duty to resist and overthrow it, thereby reaffirming the primacy of natural law over human-made institutions.

▶ **Jean-Jacques Rousseau**: Rousseau, while aligned with the natural rights tradition, introduced a more collectivist and civic interpretation through his concept of the social contract. In *The Social Contract* (1762), he argued that humans, in their natural state, possessed freedom and equality but were limited by the absence of organised social cooperation. To overcome this, individuals enter into a collective agreement to form a political community guided by the "general will" - a shared, collective interest that transcends individual desires. Sovereignty, Rousseau contended, resides not in rulers but in the people themselves, and legitimate authority is derived from the continuous and active participation of citizens. His work laid the philosophical groundwork for participatory democracy and the idea that rights must be exercised within a framework of civic responsibility and mutual obligation.

❐ Inalienable moral entitlements

❐ Consent and resistance

❐ Social contract and civic rights

1.3.2.2 Relevance to Modern Human Rights

Natural rights theory laid the philosophical and moral groundwork for foundational human rights declarations such as the American Declaration of Independence and the French Declaration of the Rights of Man and Citizen. These documents drew on the belief that rights are inherent to human beings and not conferred by governments. They articulated rights as universal moral entitlements existing prior to and above the state, thereby establishing a framework in which political authority is legitimate only insofar as it respects and upholds these pre-existing rights.

1.3.2.3 Critiques and Limitations

▶ Critics contend that natural rights are philosophically abstract and empirically unverifiable, lacking a clear basis in observable fact or universally accepted logic. This criticism raises concerns about their subjective nature, potential for cultural bias, and the difficulty of translating such theoretical ideals into concrete legal protections or universally agreed-upon standards.

▶ Jack Donnelly warns that grounding rights in nature risks falling into essentialist and ethnocentric assumptions - namely, the belief in a single, universal human nature that may ignore the complex cultural, historical, and individual differences that shape people's lives and moral perspectives. Such a view can marginalise non-Western traditions and inhibit the pluralistic understanding required for a genuinely inclusive human rights framework. **()**

1.3.3 Utilitarian Theory: Rights as Social Utility

Utilitarianism is a consequentialist ethical framework that assesses the morality of actions based on their outcomes, with the guiding principle that the best action is the one that produces the greatest overall happiness or well-being for the greatest number of people. It shifts the focus from inherent rights or duties to practical consequences, evaluating policies, laws, or actions in terms of how effectively they contribute to collective welfare.

1.3.3.1 Key Thinkers and Ideas

▶ **Jeremy Bentham**: A fierce critic of natural rights, Bentham

Foundations of modern rights

Philosophical critique

Cultural limitations of universality

Rights as means to welfare

famously dismissed them as "nonsense upon stilts." He argued that rights have no existence outside of legal systems and must be grounded in laws that serve practical utility. In Bentham's utilitarian view, rights are not metaphysical absolutes but legal instruments created by the state to maximise collective happiness. Moral abstractions, he maintained, were unreliable foundations for policy or justice, and thus rights should be judged solely by their contribution to the public good.

<aside>❏ Utility over natural rights</aside>

Bentham vs. Natural Rights: The Ultimate Roast

In a scathing critique, Jeremy Bentham - a leading figure in utilitarianism - dismissed natural rights as "nonsense upon stilts." He argued that rights must be backed by actual law and utility, not vague moral claims. Bentham's challenge wasn't just witty; it forced philosophers and legal thinkers to rethink the foundations of rights. His provocative stance contributed to the development of legal positivism, which remains influential in human rights law today.

<aside>❏ Freedom as a public good</aside>

▶ **John Stuart Mill**: Mill expanded utilitarianism by emphasising the intrinsic value of individual liberty as a critical component of societal well-being. In *On Liberty* (1859), he argued that personal freedoms - such as speech, conscience, and association - are not only vital for individual development but also essential for social progress. Mill maintained that the free exchange of ideas is necessary to uncover truth, prevent stagnation, and foster moral and intellectual growth. Thus, liberty was not merely a means to happiness but a foundational principle for a vibrant and just society.

1.3.3.2 Application to Human Rights

Utilitarian thinking has significantly shaped contemporary policy-making, particularly in areas like public health, welfare systems, education, and economic regulation. In these domains, human rights are often interpreted as instrumental mechanisms for achieving broader societal goals, such as reducing poverty, increasing life expectancy, or improving access to services. Rather than being treated as moral absolutes, rights in a utilitarian framework are valued for their contribution to the overall well-being and happiness of the majority.

<aside>❏ Instrumental approach to rights</aside>

1.3.3.3 Criticisms

A central critique of utilitarianism is that it may justify sacrificing the rights of individuals or minority groups if doing

so increases the overall happiness of the majority. This raises ethical concerns about justice and fairness, as utilitarian reasoning could be used to rationalise discriminatory or oppressive policies under the guise of maximising collective well-being.

As Donnelly argues, utilitarianism offers a fragile foundation for human rights because it does not inherently prioritise individual dignity or moral autonomy. By focusing primarily on aggregate well-being, it risks justifying severe rights violations - including censorship, forced labour, or discrimination - if such actions are deemed to contribute to overall societal happiness. This utilitarian logic can undermine the principled protection of rights, especially for vulnerable minorities.

1.3.4 Rationalist and Legal Positivist Approaches: Reason, Law, and Institutions

1.3.4.1 Rationalist Approach: Rights as Products of Reason

▶ **Immanuel Kant**: Kant believed that human dignity is rooted in rational autonomy, the unique capacity of individuals to govern themselves through moral reasoning. He argued that each person possesses intrinsic worth by virtue of being able to formulate and act upon universal moral laws. This is captured in his famous moral imperative that individuals should always be treated as ends in themselves, and never merely as means to an end. For Kant, this principle is the foundation of equal and universal rights, affirming the moral agency of all human beings regardless of circumstance or status.

▶ **John Rawls**: In *A Theory of Justice* (1971), Rawls introduced a hypothetical scenario called the "original position," where rational individuals choose the principles of justice that will govern their society without knowing their own place within it. This thought experiment, guided by the "veil of ignorance," ensures that decisions are made impartially, as no one knows whether they will be rich or poor, privileged or marginalised. From this perspective, Rawls argued that people would choose two key principles: equal basic liberties for all and a system of social and economic inequalities arranged to benefit the least advantaged. His theory redefined justice as fairness and provided a compelling rational foundation for the protection and distribution of rights in democratic societies.

❒ Risk of Tyranny of the Majority

❒ Weak Moral Anchor

❒ Rational dignity as basis

❒ Justice as fairness

1.3.4.2 Legal Positivism: Rights as Legal Constructs

▶ **H.L.A. Hart**: Hart, a leading figure in legal positivism, maintained that rights derive their validity not from moral reasoning but from their incorporation within a functioning legal system. In his view, human rights are genuine and enforceable only when they are formally recognised through laws and upheld by authoritative legal institutions, regardless of their moral content.

1.3.4.3 Institutional Relevance

These approaches underscore that the realisation of human rights depends not only on moral ideals but also on concrete legal and political structures. Rights are operationalised and safeguarded through constitutions, statutory laws, independent judiciaries, and democratic mechanisms that ensure procedural fairness, transparency, and accountability.

1.3.4.4 Critiques and Ethical Risks

▶ Rationalist approaches may overemphasise abstract logic and universal principles, potentially neglecting the diverse, context-specific experiences of individuals and communities affected by human rights issues.

▶ Legal positivism may inadvertently validate oppressive regimes (e.g., apartheid South Africa) as long as they adhere to established legal procedures, even when those laws fundamentally violate human dignity. By separating law from morality, this approach risks endorsing systems that are legally consistent but ethically indefensible.

1.3.5 Marxist Critiques: Rights and Class Power

Marxist theory contends that in capitalist societies, rights function as ideological instruments that sustain and legitimise existing class hierarchies. Rather than ensuring genuine human emancipation, liberal rights - such as property and contractual freedoms - tend to reinforce the socio-economic dominance of the bourgeoisie by masking structural inequalities as individual freedoms.

1.3.5.1 Key Thinkers and Concepts

▶ **Karl Marx**: In his critique of liberal democracy, Marx ar-

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❏ Law as rights source

❏ Procedural protection of rights

❏ Context-blind rationalism

❏ Ethically flawed legality

❏ Ideological instruments

gued that individual rights - particularly those tied to property and contract - are not neutral guarantees of freedom, but tools that serve capitalist interests. What appears to be personal liberty is, in fact, structured by economic compulsion: individuals are 'free' to sell their labour, but this freedom exists within exploitative systems that offer little real alternative, thus perpetuating class domination under the guise of legal equality.

▶ **Ideological Function of Rights**: Rights, from a Marxist lens, serve to normalise and legitimise structural inequality. For example, the right to sell one's labour in a so-called "free market" disguises the systemic exploitation embedded in wage labour, where workers are compelled by economic necessity rather than genuine freedom, thereby reinforcing capitalist domination under the guise of voluntary exchange.

1.3.5.2 Impact on Socio-Economic Rights

Marxist critiques have significantly shaped the demand for economic and social rights - such as access to education, universal healthcare, housing, and secure employment - as foundational to genuine human dignity and liberation. Contemporary Marxist thinkers advocate for a transformative rights discourse rooted in collective ownership, democratic control of resources, and equitable redistribution, challenging the individualistic and market-oriented framing of traditional liberal rights.

1.3.5.3 Internal Critiques and Limitations

▶ Marxists are often accused of dismissing civil and political rights as secondary or bourgeois, viewing them as insufficient to address the root causes of social and economic inequality. However, some Marxist scholars argue that these rights can still play a role when embedded within broader struggles for collective emancipation and structural transformation.

▶ Donnelly acknowledges that while Marxism offers a powerful critique of the class dimensions and ideological functions of rights, it has historically faced challenges in articulating a coherent and practicable framework that balances the imperatives of individual freedom with collective equality. The absence of a detailed institutional roadmap for protecting civil liberties within a socialist paradigm has

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❐ Freedom within constraint

❐ Structural exploitation

❐ Collective material rights

❐ Limits of class analysis

❐ Theoretical-practical gap

often left Marxist alternatives vulnerable to authoritarian distortions.

Marx's Hidden Contribution to Human Rights

Though Karl Marx critiqued liberal rights as bourgeois illusions, his thought indirectly inspired the rise of social and economic rights, such as the rights to education, work, and healthcare.

Today's debates about inequality, exploitation, and economic justice still echo Marxist ideas, even in international human rights frameworks that Marx himself never trusted.

1.3.6 Third World Critiques: Decolonising Human Rights Discourse

Third World scholars and activists have long argued that mainstream human rights discourse reflects Western historical experiences and power structures. Emerging from the postcolonial critique, the *Third World scholars* challenge the idea that human rights are culturally neutral or universally applied. Instead, it emphasises how colonialism, imperialism, and global capitalism have shaped international norms, including human rights, often to the disadvantage of countries in the Global South.

❏ Postcolonial Critique

Third-world scholars such as Makau Mutua and Balakrishnan Rajagopal argue that international human rights law has historically been used both as a tool of liberation and as a mechanism of control. While it has empowered anti-colonial movements, it has also reinforced hierarchies by positioning the Global North as the "protector" and the Global South as the "violated." This paternalistic dynamic frames non-Western societies as perpetual sites of crisis and moral correction rather than as equal contributors to the global human rights project.

❏ Paternalism

❏ Decolonising Human Rights

Third World scholars, therefore, call for decolonising human rights, that is, reinterpreting rights in ways that recognise histories of oppression, economic dependency, and cultural diversity. They advocate for models rooted in self-determination, collective solidarity, and economic justice rather than in Western individualism. Issues such as poverty, development, and climate justice are seen as central human rights concerns, not peripheral ones. In this sense, Third World perspectives expand the human

rights agenda beyond formal political and civil rights to include structural transformation, addressing global inequalities, resource distribution, and the continuing legacies of colonial domination.

1.3.7 Feminist Critiques: Reimagining Human Rights through a Gender Lens

Feminist theories of human rights emerged from the recognition that traditional rights frameworks have often reflected male experiences while ignoring women's lived realities. Although early human rights instruments used the language of universality, they were largely silent on gender-based discrimination, domestic violence, reproductive rights, and unpaid care work - issues central to women's lives and dignity.

❐ Gender Blindness

Feminist scholars such as Catharine MacKinnon, Hilary Charlesworth, and Martha Nussbaum argue that this "gender blindness" has perpetuated inequality by privileging the public sphere of work, politics, and law as the primary site of rights violations, while neglecting the private sphere where much of women's subordination occurs. They emphasise the maxim that *"the personal is political,"* highlighting that violence, exploitation, and exclusion within families and communities are as much human rights concerns as those taking place in the public domain.

❐ Private Sphere Inequality

By bringing women's experiences into the human rights discourse, feminist approaches have broadened its scope and meaning. They reinterpret existing rights through a gender lens, for instance, redefining torture to include sexual violence, and advocate for new frameworks that address reproductive freedom, equal pay, and protection from gender-based violence. Central to these approaches is the concept of *intersectionality*, which recognises that gender interacts with race, class, caste, and sexuality to produce complex and overlapping forms of oppression.

❐ Intersectionality

Feminist scholars also critique the global human rights movement for at times universalising Western gender norms, cautioning against imposing culturally narrow definitions of equality. Instead, they call for context-sensitive yet rights-based approaches that balance cultural diversity with a commitment to justice and non-discrimination. In essence, feminist critiques reimagine human rights as a lived, inclusive, and relational practice - one that values care, equality, bodily autono-

❐ Contextual Feminism

my, and the transformation of both public and private structures of power.

1.3.8 Postmodern Critiques: Deconstructing Universality

Postmodernism challenges the foundational assumptions of universal human rights by questioning the notions of objective truth, culturally neutral values, and a single, universal rationality. It argues that such assumptions often mask power dynamics and privilege dominant (usually Western) worldviews, thereby excluding alternative cultural narratives and epistemologies.

❐ Challenge to objectivity

1.3.8.1 Themes: Relativism, Power, Identity

Postmodern theorists emphasise that rights are not universal truths but are shaped by specific historical, cultural, and social contexts. A norm considered a right in one society may be irrelevant, contested, or even oppressive in another, highlighting the importance of local values and lived experiences in defining and understanding rights.

❐ Relativism in practice

Rights discourse often mirrors the values, priorities, and interests of dominant global actors - particularly Western liberal democracies - thereby marginalising or excluding non-Western traditions, indigenous knowledge systems, and alternative moral frameworks. This imbalance can result in a global human rights regime that, while claiming universality, inadvertently imposes culturally specific norms under the guise of neutrality.

❐ Dominance in rights discourse

While critical of universalist narratives, many postmodern thinkers endorse the deliberate and tactical use of simplified identity categories by marginalised groups - such as feminist and LGBTQ+ movements - as a means of political mobilisation. This approach acknowledges the constructed nature of identity but temporarily embraces essentialist language to assert rights, resist oppression, and gain visibility within dominant legal and political frameworks.

❐ Strategic Essentialism and Rights Mobilisation

1.3.8.2 Relevance to Intercultural Dialogue

Postmodernism urges us to critically examine whose voices are heard, whose experiences are validated, and whose interests are prioritised in global human rights regimes. It emphasises the need for pluralism, intercultural dialogue, and

❐ Inclusive advocacy

epistemic humility in rights advocacy, advocating for inclusive frameworks that recognise and respect diverse worldviews and lived realities.

1.3.8.3 Critiques: Risk of Relativism

Critics argue that postmodernism may lead to conceptual paralysis or moral relativism by undermining the possibility of universally accepted standards for human rights. By rejecting fixed foundations, postmodernism can be seen as weakening the normative basis required for consistent rights advocacy, potentially making it difficult to challenge oppression or injustice in a principled manner.

❐ Undermining shared standards

However, as Donnelly observes, postmodern insights enrich our understanding by highlighting how human rights are interpreted and practised within specific cultural and political contexts. They draw attention to the power relations embedded in rights discourse and to the necessity of interpretive openness, thereby enabling greater sensitivity to diverse experiences and perspectives in human rights advocacy.

❐ Contextual interpretation

1.3.9 Conclusion: The Value of Theoretical Pluralism

Human rights theory thrives on diversity. Each theoretical approach - whether moral, legal, economic, cultural, or philosophical - contributes uniquely to our understanding of dignity, freedom, and justice. Rather than competing for dominance, these perspectives collectively enrich the discourse by highlighting different aspects of human experience and social reality. Natural Rights Theory provides a moral foundation rooted in universality; Utilitarianism brings attention to the social outcomes of policy; Rationalist and Legal Positivist approaches strengthen institutional legitimacy; Marxism exposes structural inequalities; Third World and Feminist critiques demand inclusivity, self-determination, and equality; and Postmodernism calls for humility, pluralism, and openness to diverse worldviews.

❐ Theoretical Pluralism

❐ No single framework suffices

As Jack Donnelly contends, no single theory offers a definitive or exhaustive framework for understanding human rights. Instead, theorising is best approached as an interpretive process - one that engages critically with the inherent tensions between aspirational ideals and institutional realities, normative principles and political compromises, thus allowing for a more flexible and responsive understanding of rights across diverse contexts.

In practice, rights emerge through historical struggle, political negotiation, and evolving social consciousness. From constitutional courts and international tribunals to grassroots mobilisations and protest movements, theoretical frameworks enable us to dissect the power relations, institutional dynamics, and socio-economic conditions that determine who is empowered, who is marginalised, and how rights are interpreted and contested over time.

Ultimately, theoretical pluralism empowers scholars and practitioners to engage with complex and context-dependent questions: Whose voices are amplified or silenced? What normative frameworks inform our decisions? What historical and institutional forces perpetuate inequality? By persistently interrogating these dimensions, we foster a more inclusive, critically informed, and transformative human rights practice.

Summarised Overview

This unit offers an in-depth exploration of the major theoretical traditions that shape our understanding of human rights. It begins with the Natural Rights Theory, which anchors human dignity in universal and inalienable moral principles, and proceeds to Utilitarianism, which evaluates rights based on their contribution to collective happiness and social welfare. The Rationalist and Legal Positivist perspectives highlight the role of reason, institutions, and procedural justice in upholding rights through formal legal systems. The Marxist approach exposes the class dimensions and economic inequalities hidden beneath liberal rights frameworks, calling for a more transformative understanding of freedom and justice.

Further, Third World critiques challenge the Western dominance in global human rights discourse and advocate for a decolonised, culturally grounded, and economically just framework. Feminist theories extend the human rights debate into the private sphere, recognising gender, care, and bodily autonomy as central to the human condition. Finally, Postmodern critiques question universalist assumptions and emphasise the diversity of cultural experiences and power relations embedded in rights discourse. Taken together, these approaches reveal that no single theory can comprehensively explain the origins, meanings, and functions of human rights. The unit therefore concludes by emphasising theoretical pluralism - the need to embrace multiple perspectives to develop a more inclusive, dynamic, and contextually relevant understanding of rights in the modern world.

Self-Assessment

1. Why is it important to study the theoretical foundations of human rights?
2. What is the central premise of Natural Rights Theory, and how does it relate to modern declarations?
3. How does Utilitarianism evaluate rights, and what are its potential dangers?
4. What is the difference between the Rationalist and Legal Positivist approaches to rights?
5. How do Marxist critiques challenge liberal conceptions of human rights?
6. How do Third World scholars challenge the universality of human rights, and in what ways do they propose to decolonise the global human rights discourse?
7. In what ways do feminist theories redefine the scope of human rights, and how does the concept of intersectionality deepen our understanding of gender-based inequalities within rights frameworks?
8. In what ways does Postmodernism deconstruct the universality of human rights?
9. What is meant by theoretical pluralism, and why is it important in human rights discourse?

Assignment Questions

1. Compare and contrast Natural Rights Theory and Utilitarianism in their treatment of individual rights. Discuss their core premises, key thinkers, practical relevance, and limitations.
2. Apply either Marxist or Postmodern theory to a real-world human rights issue (e.g., refugee rights, climate justice, and digital surveillance). Explain how the chosen theoretical lens reveals overlooked dimensions or contradictions in mainstream rights discourse.

Reference

1. Donnelly, J. (2013). *Universal Human Rights in Theory and Practice* (3rd ed.). Cornell University Press.
2. Clapham, A. (2015). *Human Rights: A Very Short Introduction*. Oxford University Press.

3. Freeman, M. (2017). *Human Rights: An Interdisciplinary Approach* (3rd ed.). Polity Press.

4. Locke, J. (1689). *Second Treatise of Government*.

5. Mill, J. S. (1859*). On Liberty*.

6. Rawls, J. (1971). *A Theory of Justice.* Harvard University Press.

7. Hart, H.L.A. (1961). *The Concept of Law*. Oxford University Press.

8. Mutua, M. (2002). *Human rights: A political and cultural critique.* University of Pennsylvania Press.

9. Rajagopal, B. (2003). *International law from below: Development, social movements and Third World resistance*. Cambridge University Press.

10. Charlesworth, H., & Chinkin, C. (2000). *The boundaries of international law: A feminist analysis.* Manchester University Press.

Suggested Reading

1. Moyn, S. (2010). *The Last Utopia: Human Rights in History*. Harvard University Press.

2. Ishay, M. (2008). *The History of Human Rights*. University of California Press.

3. Hunt, L. (2007). *Inventing Human Rights: A History.* Norton.

4. Nussbaum, M. C. (2000). *Women and human development: The capabilities approach.* Cambridge University Press.

5. Stanford Encyclopedia of Philosophy: Human Rights https://plato.stanford.edu/entries/rights-human/

6. OHCHR Learning Hub: https://www.ohchr.org/en/learning-hub

7. Human Rights Watch: https://www.hrw.org

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

BLOCK 2
International Organisations and Human Rights

Role of the United Nations Organisation

Learning Outcomes

By the end of this unit, learners will be able to:

▶ explain the historical evolution and foundational goals of the United Nations concerning human rights.

▶ identify and analyse the core human rights instruments and institutions of the UN system.

▶ critically examine the relationship between development and human rights through the lens of MDGs and SDGs.

▶ assess the structural challenges and political dynamics that hinder the enforcement of human rights in the UN framework.

▶ evaluate the shifting role and relevance of the UN in advancing a rights-based global order.

Background

The establishment of the United Nations in 1945 marked a turning point in global governance, driven by the catastrophic consequences of the two World Wars. The world community came together to forge a new multilateral system that prioritised peace, security, and the protection of human dignity. As part of this vision, human rights were enshrined in the UN Charter as both moral imperatives and legal obligations.

Human rights soon became central to the UN's mandate, leading to the development of normative instruments, such as the Universal Declaration of Human Rights, and legally binding treaties, such as the ICCPR and ICESCR. These frameworks not only shaped international law but also institutionalised a vision of justice and equality that transcended national boundaries. Over time, the UN's architecture evolved to include specialised bodies like the Human Rights Council and OHCHR, tasked with promoting and monitoring compliance.

In recent decades, the UN has expanded its role from norm-setting to transformative development through initiatives such as the Millennium Development Goals and the Sustainable Development Goals. While these agendas reflect a commitment to rights-based development, they also expose deep challenges in implementation, including geopolitical power imbalances, lack of enforceability, and selective application. This unit investigates these dynamics while reaffirming the UN's central - albeit contested - role in protecting human rights.

Keywords

UN Charter, Human Rights Instruments, Human Rights Council, Millennium Development Goals (MDGs), Sustainable Development Goals (SDGs), State Sovereignty vs Human Rights

Discussion

2.1.1 Introduction

Founded in 1945 in the aftermath of the unprecedented destruction of World War II, the United Nations Organisation (UNO) was conceived as a platform to foster international peace, security, development, and the protection of human rights. The collective trauma of war and genocide impelled the international community to enshrine human dignity as a cornerstone of the post-war order. Consequently, the UN Charter became the first international treaty to embed human rights as a fundamental commitment, with key articles such as 1(3), 13, 55, and 56 serving as the legal and moral bedrock of this vision. These provisions reflected a paradigm shift in global governance towards a rule-based international order that prioritised justice, equality, and dignity.

☐ Foundation of the UN's human rights agenda

Over the decades, the UNO has expanded its influence through both standard-setting mechanisms, like the Universal Declaration of Human Rights (UDHR), and ambitious development frameworks, including the Millennium Development Goals (MDGs) and Sustainable Development Goals (SDGs). This unit explores how the UN's legal mandates, institutional arrangements, and developmental programmes collectively shape its role in advancing the human rights agenda worldwide.

☐ Global human rights expansion

A Name Born from a War Letter

Did you know the term "United Nations" was first used by Franklin D. Roosevelt in a 1942 declaration against the Axis Powers during World War II? It was later adopted as the name for the international organisation that replaced the League of Nations in 1945.

Initially, it wasn't about peacekeeping, but about winning a war!

2.1.2 The United Nations and the Advancement of Global Human Rights

The United Nations Organisation (UNO), established in 1945, was created with the overarching purposes of maintaining international peace and security, promoting social progress, and fostering respect for human rights and fundamental freedoms. These objectives, embedded in both the Preamble and Article 1 of the UN Charter, reflect a holistic vision in which peace, development, and human rights are mutually reinforcing and interdependent. Sustainable peace, for instance, is not possible without justice and inclusive development.

❒ Holistic vision of peace, development and human rights

Article 1(3) of the Charter explicitly affirms the UN's commitment "to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction." As Andrew Clapham (2016) notes, this provision marked a transformative moment in international relations, making human rights not just aspirational but a foundational legal obligation of the UN system.

❒ Legalisation of rights

Further, Articles 55 and 56 of the Charter call upon member states to actively cooperate in achieving universal respect for human rights. Alston and Mégret (2020) highlight that the inclusion of human rights within the legal architecture of the Charter represented a significant departure from traditional norms of international law, which focused primarily on state sovereignty and non-interference. The Charter thus enabled the international community to treat individuals as rights-holders and legitimised global concern for state conduct within their own borders.

❒ Shift from sovereignty to accountability

The implementation of these objectives is operationalised through key institutional mechanisms of the UN. The General Assembly serves as the main deliberative body, setting norms

and fostering global consensus. The Economic and Social Council (ECOSOC) coordinates economic and social initiatives, while the UN Security Council holds the authority to respond to grave human rights violations that threaten international peace. The International Court of Justice (ICJ) settles disputes involving state obligations, and the Office of the High Commissioner for Human Rights (OHCHR) leads the UN's global efforts in promoting and protecting human rights.

❐ UN institutional framework

These principal organs are supported by a range of subsidiary bodies and mechanisms such as treaty-based committees (e.g., the Human Rights Committee, the Committee on Economic, Social and Cultural Rights), Special Rapporteurs, Independent Experts, and thematic and country-specific working groups. Collectively, they provide expert guidance, conduct monitoring, and issue recommendations to advance human rights worldwide.

❐ Subsidiary human rights mechanisms

The UN's human rights objectives are also reflected in its normative frameworks. Rhona Smith (2014) emphasises that the institutionalisation of human rights laid the foundation for landmark international instruments such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These treaties, along with numerous thematic conventions, form the basis of the international human rights regime and translate the Charter's broad aims into binding legal commitments.

❐ Foundational human rights instruments

Since then, the United Nations has continued to pass declarations, resolutions, and conventions that shape global human rights standards and inspire national and international action. Through its charters, covenants, conventions, treaty bodies and specialised agencies like UNHRC, the UN has established a living and evolving framework that embodies the international community's shared commitment to uphold human dignity, equality, and justice for all. This enduring framework remains the cornerstone of modern human rights governance, shaping both global policy and local practice.

❐ Enduring Legacy

Over time, the UN has adapted its strategies to address evolving global challenges. Although the Millennium Development Goals (MDGs) were not explicitly grounded in a human rights framework, they reflected the UN's broader developmental aspirations. Their successor, the Sustainable Development Goals (SDGs), adopted in 2015, represent a significant shift. The SDGs embed principles of equality, participation, and accountability

❐ Developmental rights evolution

across all 17 goals, reaffirming that human rights are both the means and the ends of development.

As Clapham (2016) observes, the SDGs' guiding principle of "leave no one behind" aligns directly with the UN Charter's emphasis on justice and inclusive development. SDG 16, in particular, reflects the UN's commitment to peace, justice, and strong institutions. Alston and Mégret argue that the primary challenge today is not in redefining the UN's objectives, but in achieving them through enforceable commitments, inclusive decision-making, and robust accountability mechanisms. In conclusion, the UNO's objectives in relation to human rights, as articulated in the Charter and expanded through legal instruments and institutional practice, reflect a coherent and evolving

❐ Rights-based
SDG vision

UN Charter's Hidden Spark for Human Rights

When the United Nations Charter was signed in 1945, it included just two brief mentions of "human rights"- in Articles 1 and 55. Despite their vagueness, these lines proved historic. They laid the groundwork for the Universal Declaration of Human Rights, which was adopted just three years later. The lesson? Even the most powerful global movements can begin with the simplest of phrases - when backed by moral urgency and international consensus.

The Nobel Peacekeeping Force

In 1988, the UN Peacekeeping Forces were awarded the Nobel Peace Prize for their efforts in reducing conflict across the globe. The blue helmets have operated in more than 70 missions worldwide and are often called "the world's emergency responders."

Yet, they aren't part of the UN Charter - it was an improvised innovation by Secretary-General Dag Hammarskjöld and Canadian diplomat Lester Pearson in response to the Suez Crisis of 1956!

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commitment to building a just and equitable international order.

2.1.3 United Nations Human Rights Council (UNHRC)

The United Nations Human Rights Council (UNHRC), established by the UN General Assembly in 2006, serves as the principal intergovernmental body responsible for promoting and protecting human rights worldwide. It replaced the former Commission on Human Rights (UNCHR), which had

functioned since 1946, to enhance credibility, transparency, and effectiveness in addressing global human rights challenges. The creation of the HRC was a response to mounting criticism of the Commission's performance, particularly regarding its selectivity, politicisation, and the credibility crisis stemming from the participation of member states with poor human rights records.

2.1.3.1 The Objectives and the Role of UNHRC

The HRC was established as a subsidiary organ of the General Assembly, thereby granting it a broader mandate and greater institutional accountability. Its structure was designed to be more transparent, objective, and geographically balanced. The Council meets regularly in Geneva to examine human rights situations, address violations, and foster international dialogue and cooperation. The membership was restricted to 47 states, elected directly by the General Assembly through a secret ballot, and required that members uphold the highest standards in the promotion and protection of human rights. Terms are limited to three years, with no immediate re-election after two consecutive terms, an improvement aimed at preventing entrenched political interests from dominating the Council's agenda.

Violations, promoting universal respect for human rights, and responding to emergency human rights situations. Among its most significant innovations is the Universal Periodic Review (UPR) mechanism, which subjects all 193 UN member states to a peer review of their human rights records every four to five years. This universal and non-selective approach to monitoring marked a significant improvement over the previous Commission's practices and was intended to foster constructive dialogue, best practices, and accountability. In addition to the UPR, the HRC appoints Special Rapporteurs, Independent Experts, and Thematic Working Groups to examine country-specific situations or global issues such as torture, freedom of expression, or the rights of women and Indigenous peoples. It can also convene Special Sessions to respond swiftly to human rights crises and issue resolutions, recommendations, and reports that shape international norms and influence state behaviour.

2.1.3.2 Key Functions of the UNHRC

According to Rhona Smith (2014), the establishment of the HRC brought several procedural and structural innovations aimed at strengthening global human rights oversight:

Inclusive state accountability

▶ **Universal Periodic Review (UPR):** A state-led peer-review mechanism under the auspices of the Human Rights Council, where every UN member state undergoes a comprehensive evaluation of its human rights performance every four to five years. The process involves three stages: the preparation of national reports, interactive dialogue among states, and the adoption of outcome documents with recommendations. The UPR is unique in its universal coverage and inclusive participation of states, NGOs, and civil society, aiming to enhance accountability, transparency, and the implementation of human rights obligations.

Independent thematic and country monitoring

▶ **Special Procedures:** A system of independent human rights experts appointed by the Human Rights Council to monitor, advise, and publicly report on human rights situations globally. These mandates can be either thematic (e.g., the right to food, freedom of religion, torture) or country-specific (focused on a particular state's human rights situation). Special Rapporteurs and Independent Experts undertake country visits, communicate with governments, issue urgent appeals, and present annual reports to the Council and the General Assembly, significantly contributing to both early warning and normative development.

Systemic abuse redressal

▶ **Complaint Procedures:** This mechanism allows individuals, groups, and civil society organisations to submit credible and substantiated complaints about persistent patterns of gross human rights violations. Managed under the Human Rights Council, these procedures involve a confidential review process conducted by the Working Group on Communications and the Working Group on Situations. If admissible, the case may lead to engagement with the concerned state, follow-up reporting, and, in some instances, inclusion on the Council's agenda for public discussion. The process aims to address systemic abuse while protecting the confidentiality and safety of complainants.

Persistent challenges and advocacy platform

Despite these reforms, the HRC continues to face some of the same criticisms that plagued its predecessor, particularly regarding political bias, bloc voting, and selective engagement. Some of the powerful member states are sometimes accused of shielding allies from scrutiny while disproportionately focusing on others. Nevertheless, the Council remains a central global forum for human rights advocacy, standard-setting, and oversight. As Freedman (in Mégret & Alston, 2020) argues, while imperfect, the HRC represents a necessary evolution in international human rights governance, offering a more transparent,

structured, and accountable mechanism than its predecessor, and serving as a platform for amplifying both state and civil society voices in the global human rights discourse.

The 'UPR' – Human Rights Peer Review, UN-Style

The Universal Periodic Review (UPR) is like a human rights report card for countries, where every UN member state reviews every other state on its human rights record. Even powerful states must answer tough questions from smaller nations—a rare moment of global equality within the UN system. One diplomat called it "the most diplomatic way to embarrass a country into behaving better."

Case Study: Rohingya Crisis (2017–present)

In response to widespread reports of mass killings, sexual violence, and forced displacement of Rohingya Muslims from Myanmar in 2017, the Human Rights Council established the Independent International Fact-Finding Mission on Myanmar. The mission collected testimonies, satellite imagery, and other evidence, concluding that serious crimes under international law, including possible genocide, had been committed by Myanmar's military. Its findings informed the UN General Assembly's resolutions and were later used in The Gambia v. Myanmar case before the International Court of Justice under the Genocide Convention. While the HRC's investigations gave international visibility to the atrocities and created a foundation for legal accountability, its lack of enforcement power meant that immediate protection for the Rohingya remained limited. This case highlights both the Council's strength in documenting violations and shaping global discourse, and its weakness in directly preventing abuses.

2.1.4 Office of the High Commissioner for Human Rights (OHCHR)

2.1.4.1 Mandate of OHCHR

Established in the aftermath of the 1993 Vienna World Conference on Human Rights, the Office of the High Commissioner for Human Rights (OHCHR) was conceived as a central authority within the UN to advance the cause of human rights worldwide. Headed by the High Commissioner, the OHCHR plays a pivotal role in shaping international human rights policy, promoting adherence to universal standards, and providing strategic leadership across the UN's human rights efforts. It works closely with member states to align their domestic legislation and practices with international human rights ob-

❏ Global human rights coordination

ligations. It serves as the main coordinator of human rights activities across UN agencies, peacekeeping missions, and global development programs.

2.1.4.2 Key Activities and Functions

Its principal functions encompass a broad spectrum of activities, such as:

❏ Institution building

▶ Providing technical cooperation and legal advisory services to assist states in building robust national human rights institutions, reforming legal systems, and strengthening legislative and policy frameworks to ensure compliance with international human rights obligations.

❏ Mandate facilitation

▶ Supporting treaty bodies, such as the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, by facilitating their review of state reports, providing secretariat assistance, and ensuring follow-up on recommendations; and assisting special rapporteurs in executing their mandates through logistical support, research, and coordination of country visits and thematic studies.

❏ Awareness and engagement

▶ Engaging in public advocacy by raising awareness on pressing human rights issues through media, campaigns, and official statements; conducting rigorous **reporting** based on empirical data and field investigations to inform policy and monitor compliance; and undertaking diplomatic engagement through dialogue with member states, regional bodies, and multilateral platforms to promote cooperation and accountability in human rights implementation.

❏ Peace missions and transitional justice

▶ Coordinating field operations, including the integration of human rights components within peacekeeping and political missions. These components are responsible for monitoring, reporting, and advising on human rights issues in conflict and post-conflict zones, engaging with national authorities, supporting transitional justice processes, and ensuring that human rights principles are upheld in the broader context of peace and security operations.

The OHCHR is also tasked with orchestrating the UN's rapid and coordinated responses to emerging and ongoing human rights crises, including instances of mass atrocities, armed conflict, or systemic discrimination. It plays a central role in ensuring that human rights considerations are integrated into UN peace operations, humanitarian response, and development frameworks. According to official OHCHR documentation, it

operates in more than 60 countries through field presences, regional offices, and peace missions, employing over a thousand staff who work across the full spectrum of civil, political, economic, social, and cultural rights. This global footprint enables the OHCHR to maintain a visible, principled, and responsive presence in both multilateral diplomacy and field engagement.

Zeid Ra'ad Al Hussein - The Prince Who Spoke Truth to Power

Not many know that the UN High Commissioner for Human Rights (2014–2018), Zeid Ra'ad Al Hussein, is a Jordanian prince - but he became famous not for royalty, but for fearless advocacy.

He openly challenged global leaders, criticising Trump, Duterte, and Hungary's Orbán for rights abuses.

A quote from him went viral: "You are a disgrace to your office!" Addressed to a populist leader, it showed that the OHCHR is not just administrative, it's a moral voice personified.

2.1.5 Development and Human Rights: MDGs and SDGs

2.1.5.1 The Millennium Development Goals (MDGs)

The Millennium Development Goals (MDGs), launched in 2000, represented a landmark global initiative to tackle poverty and promote human development. Arising from the Millennium Declaration, the MDGs outlined eight measurable and time-bound goals to be achieved by 2015. These goals included eradicating extreme poverty and hunger, achieving universal primary education, promoting gender equality, reducing child and maternal mortality, combating diseases such as HIV/AIDS and malaria, ensuring environmental sustainability, and strengthening global partnerships for development. The MDGs marked a turning point in international cooperation, uniting governments, international agencies, and civil society around a shared development agenda.

MDGs: Achievements and Limitations

The MDGs achieved notable success in mobilising global resources and achieving measurable progress in key areas. Extreme poverty rates were halved ahead of schedule, millions of children gained access to primary education, and significant improvements were recorded in reducing child and maternal mortality and expanding access to clean water. These achievements demonstrated the power of coordinated global action and the

potential of data-driven development planning.

However, the MDGs also faced substantial limitations. As Rhona Smith (2014) points out, they lacked built-in accountability mechanisms and failed to sufficiently engage marginalised populations in their design and implementation. Many goals were treated as technical or economic targets rather than as rights-based obligations grounded in justice and participation. The focus on aggregate progress often masks deep inequalities within and between countries, leaving behind groups such as women, Indigenous communities, and persons with disabilities. In addition, the MDGs' donor-driven approach reinforced a top-down model of development that sometimes prioritised efficiency over empowerment.

Reappraising the MDGs from a Human Rights Lens

From a human rights perspective, the MDGs have been widely critiqued for their narrow, technocratic framing of development. Andrew Clapham (2016) notes that they largely ignored civil and political rights such as freedom of expression, access to justice, and participation in governance - rights essential for empowering individuals to claim and shape their own development. Similarly, Alston and Mégret (2020) argue that the MDGs embodied a depoliticised vision of development, focusing on outcomes while neglecting the structural causes of inequality and exclusion. The absence of a clear legal framework and state accountability mechanisms further limited their transformative potential.

In sum, while the MDGs succeeded in rallying global attention and driving measurable progress, they fell short of integrating a comprehensive human rights approach. Their experience provided valuable lessons for the next phase of global development, the Sustainable Development Goals (SDGs), which sought to build on these successes while addressing their limitations through a more inclusive, participatory, and rights-based framework.

2.1.5.2 The Sustainable Development Goals (SDGs)

Adopted in 2015, the **Sustainable Development Goals (SDGs)** represent a major turning point in global efforts to link development with human rights. Building on the experiences of the Millennium Development Goals (MDGs), the SDGs were introduced through the *2030 Agenda for Sustainable De-*

□ MDGs Gaps

□ Human Rights Critique

□ Lessons for SDGs

velopment to create a fairer, more inclusive, and sustainable world. The framework consists of **17 goals and 169 targets** that address a wide range of global challenges, from poverty, hunger, and inequality to climate change, peace, and justice. Unlike earlier approaches that treated development as a primarily economic issue, the SDGs recognise that economic growth, social inclusion, and environmental protection must progress together.

SDGs: A Normative Shift

The SDGs mark a clear shift toward a human rights-based approach to development. They are built on principles such as equality, non-discrimination, participation, accountability, and the rule of law - values that echo the foundation of international human rights. These principles are reflected across all 17 goals, underscoring that rights are universal, indivisible, and interconnected. Among them, SDG 16, focusing on peace, justice, and strong institutions, stands out for recognising that good governance, access to justice, and transparent institutions are essential for sustainable development.

Another defining feature of the SDGs is their universality. Unlike the MDGs, which focused mainly on developing countries, the SDGs apply to all nations, rich and poor alike. This universality acknowledges that inequality, environmental degradation, and social exclusion are global issues requiring shared responsibility. Central to the SDG framework is the promise to "leave no one behind," a principle that calls for prioritising the needs of the most vulnerable, women, children, Indigenous peoples, persons with disabilities, and communities affected by conflict or climate change. As Clapham (2016) notes, this inclusive vision marks a major step forward in connecting development with the ideals of dignity, equality, and democratic participation.

However, challenges remain. As Alston and Mégret (2020) point out, while the SDGs are ambitious and progressive, they lack binding legal force. Without strong accountability mechanisms, there is a risk that the goals will remain aspirational rather than translate into real, measurable change on the ground.

SDGs and Rights-Based Development

The SDGs reflect a new way of thinking about development, one rooted in human rights and empowerment. They emphasise that development is not a matter of charity but a matter of justice. Goals such as SDG 1 (No Poverty), SDG 5 (Gender

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❐ Integrated vision

❐ Human rights-based approach to development

❐ Universality & Inclusion

❐ Enforcement Challenge

17 SDGs

Equality), SDG 10 (Reduced Inequalities), and SDG 16 (Peace, Justice, and Strong Institutions) highlight this connection by linking progress to people's ability to claim their rights and participate in decisions that affect their lives. As Clapham (2016) observes, this marks a shift from viewing people as beneficiaries of aid to recognising them as rights-holders entitled to dignity and opportunity.

To make this vision real, the SDGs emphasise accountability, inclusiveness, and data-driven monitoring. By collecting disaggregated data and engaging civil society, they seek to ensure that inequalities are recognised and that marginalised voices are heard in policy-making. Yet, as Mégret and Alston (2020) note, implementation remains uneven, and much depends on voluntary national commitments rather than enforceable obligations. In essence, the SDGs represent a meaningful step toward integrating human rights into global development. While the lack of legal enforceability remains a concern, their inclusive spirit and rights-based approach offer a robust framework for creating a world where prosperity, justice, and equality are shared by all.

2.1.5.3 Convergence of Human Rights and Development

The transition from the MDGs to the SDGs is more than a policy change, it reflects a deepening recognition of development as a human right in itself. As Rhona Smith (2014) underscores, human rights are not merely aspirational add-ons to development agendas but the very foundation upon which equitable, inclusive, and sustainable development must be built. While the MDGs were instrumental in mobilising global action, the SDGs aspire to achieve systemic transformation by embedding rights into each stage of development planning and execution. In doing so, the SDGs affirm that the dignity of individuals must remain at the heart of development policy.

❏ Development as human rights

2.1.6 Challenges in Enforcement and Implementation

Enforcing human rights within the UN framework presents numerous and persistent challenges. Chief among these is the enduring tension between the principle of state sovereignty and the imperative of international human rights protection. This conflict often curtails the UN's capacity to intervene effectively, particularly when gross violations occur within a member state's borders. The Security Council's structure compounds this issue, as the veto power held by its five permanent members (P5) frequently obstructs timely and impartial responses to crises, especially when strategic interests are at stake. Moreover, the UN faces chronic resource constraints, overlapping mandates, and institutional inertia, all of which hinder coordinated, robust action. The inconsistent political will among member states further undermines enforcement, leading to selective engagement and eroding the credibility of the UN's human rights mechanisms.

❏ Structural limitations due to sovereignty, veto power, and political will

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Case Study: Rwanda Genocide (1994)

The UN's failure in Rwanda is one of the most cited examples of institutional limitations. Despite clear warnings of impending genocide, the UN Security Council withdrew most peacekeepers after initial violence. Around 800,000 people were killed in just 100 days. The later establishment of the International Criminal Tribunal for Rwanda (ICTR) did bring accountability, convicting high-level perpetrators and developing international jurisprudence on genocide and sexual violence. However, the delayed response highlighted structural weaknesses: reliance on state political will and paralysis due to the veto system.

Another significant challenge is the politicisation of human rights, in which states strategically deploy human rights discourse to advance foreign policy objectives. This instrumentalisation often leads to accusations of hypocrisy and double standards, as human rights violations in rival states are condemned while those in allied or strategically important countries are ignored or downplayed. Such selective engagement undermines the legitimacy and impartiality of international human rights mechanisms and weakens global trust in the UN system.

Furthermore, voices from the Global South have consistently advocated for a more balanced and inclusive human rights regime, one that acknowledges and integrates diverse cultural perspectives, prioritises economic justice, and democratises global governance structures. These calls emphasise that universal human rights must be responsive to local realities and should not be shaped solely by dominant geopolitical powers. Advocates argue for a participatory approach to international decision-making that ensures equal representation and respects the sovereignty and development priorities of all nations.

2.1.7 Conclusion: The UN's Enduring but Evolving Role

The UNO has played an indispensable role in shaping and advancing the global human rights architecture. Through its establishment of normative standards such as the UDHR and its leadership in development initiatives like the MDGs and SDGs, the UN has persistently championed the cause of human dignity, justice, and equality. These efforts have contributed to setting a global moral compass and building legal and institutional frameworks for human rights. However, the organisation operates in a complex geopolitical landscape and continues to encounter systemic challenges, including power imbalances, limited enforcement mechanisms, and divergent political agendas, that impact its credibility, responsiveness, and overall efficacy.

As Alston and Mégret observe, the UN human rights regime is not static; rather, it is shaped by a complex interplay of evolving global challenges, shifting power dynamics, and competing normative visions. These tensions can result in fragmentation or innovation, depending on how they are managed within the institutional framework. Nevertheless, the UN continues to serve as the primary international forum for articulating, coordinating, and monitoring human rights commitments. Moving forward, the imperative is not only to reform and strengthen its mechanisms but also to democratize decision-making pro-

cesses, enhance accountability, and ensure that human rights become tangible entitlements universally enjoyed, rather than merely idealistic declarations.

Summarised Overview

This unit explores the evolving role of the United Nations Organisation in promoting and protecting human rights across the world. Beginning with the Charter's foundational commitment to human dignity and international cooperation, the unit delves into the legal, institutional, and normative architecture that positions human rights at the core of the UN's agenda. From the Universal Declaration of Human Rights to the International Bill of Human Rights, the UN has shaped global expectations and responsibilities concerning civil, political, economic, and social rights.

Simultaneously, the unit investigates the UN's engagement with development as a pathway to realising human rights, tracing the transition from the MDGs' technocratic approach to the more inclusive and accountable SDGs. Despite these normative advances, the organisation continues to grapple with enforcement limitations, political selectivity, and legitimacy challenges. The unit concludes by reaffirming the UN's indispensable, yet imperfect, role in advancing a human rights-based global order and the need for continued reform and inclusivity in global governance.

Self-Assessment

1. What are the key human rights provisions in the UN Charter, and why are they significant?

2. Describe the structure and function of the UN's principal and subsidiary human rights bodies.

3. How do the MDGs and SDGs differ in terms of their approach to human rights?

4. How does state sovereignty complicate the enforcement of human rights within the UN system?

Assignment Questions

1. Examine the legal and institutional mechanisms through which the UN promotes human rights. How effective are these mechanisms in addressing contemporary global human rights challenges?

2. Select a specific UN intervention (e.g., in Syria, Myanmar, Sudan, or Ukraine) and evaluate the successes and limitations of the UN's human rights engagement in that context.

3. Compare the MDGs and SDGs with a focus on their integration of human rights principles. Discuss whether the SDGs adequately address the criticisms of the MDG framework.

4. Draft a brief recommending reforms to the Human Rights Council that would enhance its credibility and effectiveness.

Reference

1. Alston, P., & Mégret, F. (2020). *The United Nations and Human Rights: A Critical Appraisal* (2nd ed.). Oxford University Press.

2. Clapham, A. (2016). *Human Rights: A Very Short Introduction*. Oxford University Press.

3. Handout 7. (n.d.). *Millennium Development Goals*. United Nations Department of Public Information.

4. Smith, R.K.M. (2018). Textbook on International Human Rights (8th ed.). Oxford University Press.

5. Boutros-Ghali, B. (1992). *An agenda for peace: Preventive diplomacy, peacemaking and peace-keeping*. United Nations.

6. UN Charter (https://www.un.org/en/charter-united-nations/)

Suggested Reading

1. Donnelly, J. (2013). *Universal Human Rights in Theory and Practice* (3rd ed.). Cornell University Press.

2. Forsythe, D. P. (2017). *Human Rights in International Relations* (4th ed.). Cambridge University Press.

3. Mutua, M. (2002). *Human Rights: A Political and Cultural Critique*. University of Pennsylvania Press.

4. Tomuschat, C. (2014). *Human Rights: Between Idealism and Realism* (3rd ed.). Oxford University Press.

5. UN Office of the High Commissioner for Human Rights: https://www.ohchr.org

6. UN SDG Knowledge Platform: https://sdgs.un.org

7. Human Rights Watch Reports: https://www.hrw.org

8. Amnesty International Resources: https://www.amnesty.org

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

Policies and Programmes of The United Nations Organisation (UNO)

Learning Outcomes

By the end of this unit, learners will be able to:

▶ explain the historical evolution and purpose of the United Nations in promoting global human rights.

▶ describe key UN conventions and programmes related to women, children, and refugees.

▶ discuss the role of specialised UN agencies such as UN Women, UNICEF, and UNHCR.

▶ analyse India's engagement with major UN human rights frameworks, including CEDAW, CRC, and the Refugee Convention.

▶ critically examine implementation challenges and ongoing debates in global human rights protection.

Background

The establishment of the United Nations Organisation in 1945 marked a pivotal moment in the evolution of global governance and human rights protection. Born out of the devastation of World War II, the UN's central mission has been to maintain peace, uphold human dignity, and promote social progress. Over time, the UN expanded its scope from maintaining peace to addressing deeper social inequalities that hinder the realisation of human rights.

The UN's work in human rights has particularly focused on vulnerable populations such as women, children, refugees, and persons with disabilities. The adoption of landmark conventions such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), the Convention on the Rights of the Child (CRC, 1989), and the 1951 Refugee Convention illustrates the organisation's progressive commitment to specific rights-based frameworks.

This unit explores the evolution of these international legal instruments and the programmes established under UN agencies such as UN Women, UNICEF, and the UNHCR. It also analyses India's engagement with these conventions—both in terms of ratification and implementation, highlighting the interplay between global norms and domestic realities.

Keywords

CEDAW, CRC, UNHCR, UNICEF, Gender Equality, Non-refoulement, Cultural Relativism, Refugees, Empowerment, Discrimination, Child Protection

Discussion

2.2.1 Introduction

❐ UN Mission

The United Nations Organisation (UNO) was established in 1945 in the aftermath of the Second World War, with its central mission being to maintain international peace and promote human rights, justice, and social progress. The UN Charter (1945) embodies a commitment to uphold the dignity and worth of every individual, affirming equality and fundamental freedoms for all, irrespective of gender, race, or nationality. Since its founding, the UN has emerged as the foremost global institution for setting human rights standards, coordinating humanitarian action, and promoting equitable socio-economic development across nations.

❐ UDHR Legacy

A significant milestone in this journey was the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, which established, for the first time, a universal set of principles protecting the inherent rights and freedoms of all human beings. This declaration became the foundation for subsequent international treaties and conventions, shaping the modern human rights framework. Over time, the UN has expanded its focus beyond broad principles to address the specific needs of vulnerable groups such as women, children, refugees, and persons with disabilities, thereby strengthening its role as the global guardian of human dignity.

2.2.1.1 Evolution of UN Policies on Vulnerable Groups

In the decades following its establishment, the UN recognised that certain groups face persistent inequalities and systemic barriers that limit their participation in society. To address these disparities, it progressively developed a series of legally binding conventions that provided targeted protection for such groups. The early foundations were laid through the International Covenant on Civil and Political Rights (ICCPR, 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) - together with the UDHR, these instruments form the International Bill of Human Rights. Building on this foundation, the UN moved toward more specialised conventions designed to address the distinct needs of specific populations.

Key milestones in this evolution include the 1951 Refugee Convention, which established international standards for the protection of refugees; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), which serves as a comprehensive charter for women's rights; and the Convention on the Rights of the Child (CRC, 1989), which recognised children as independent rights-holders entitled to protection and development. These conventions marked a decisive shift from general principles of equality to concrete, enforceable commitments, supported by monitoring mechanisms to ensure state accountability.

2.2.1.2 Need for International Legal Frameworks

Global human rights protection requires cooperation that extends beyond national boundaries. Many of today's pressing challenges, such as migration, human trafficking, gender-based violence, climate-induced displacement, and child labour, are transnational in nature and cannot be effectively addressed by individual states acting alone. International legal frameworks developed under the UN system provide a shared standard of conduct for all nations, ensuring that basic human rights are protected everywhere. These frameworks establish common obligations, define the responsibilities of states, and create mechanisms to monitor compliance. Institutions such as UN Women, UNICEF, and the UNHCR operationalise these commitments by providing technical assistance, policy guidance, and humanitarian support to member states.

Furthermore, these frameworks foster international solidarity by ensuring that no state can ignore violations of fundamental rights within its borders under the guise of sovereignty. They encourage states to adopt inclusive laws and institutions that

Targeted Protection

Legal Milestones

Global Cooperation

prevent discrimination, promote equality, and advance sustainable human development. Thus, international human rights law, anchored in UN conventions, serves as both a moral compass and a practical mechanism for building a just and equitable global order.

2.2.2 Policies and Programmes of the UNO for Women

Throughout history, women across the world have faced systemic inequality, exclusion, and discrimination in social, economic, and political spheres. Although significant progress has been made in areas such as education, health, and political participation, gender disparities remain entrenched in employment, decision-making, and protection from violence. Recognising these persistent inequalities, the United Nations placed gender equality and women's empowerment at the centre of its human rights agenda soon after its formation. In 1946, the UN established the Commission on the Status of Women (CSW) - the first intergovernmental body dedicated exclusively to promoting women's rights and documenting gender-based discrimination. This initiative marked the beginning of a sustained global effort to address gender inequality through legal instruments, policy frameworks, and international cooperation.

2.2.2.1 UN Commission on the Status of Women (CSW)

The CSW functions as a key commission of the UN Economic and Social Council (ECOSOC) and serves as the primary global policy-making body on gender equality. Its mandate includes setting international standards for women's rights, monitoring progress, and influencing the development of international conventions such as CEDAW (1979). Each year, the CSW convenes in New York, bringing together representatives from member states, civil society, and international organisations to evaluate emerging challenges and formulate policy recommendations.

The Commission's work has shaped several landmark global commitments, including the Beijing Declaration and Platform for Action (1995), a comprehensive framework outlining 12 critical areas of concern for women's empowerment, and Sustainable Development Goal 5 (SDG 5) of the 2030 Agenda for Sustainable Development, which aims to "achieve gender equality and empower all women and girls."

> **When Hillary Clinton Declared: 'Women's Rights Are Human Rights'**
>
> At the 1995 Beijing World Conference on Women, U.S. First Lady Hillary Rodham Clinton delivered a now-iconic speech declaring, "Human rights are women's rights and women's rights are human rights."
>
> The statement drew thunderous applause and crystallised the global women's rights movement around a single powerful idea.

2.2.2.2 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979)

❏ Women's Rights Charter

Adopted by the UN General Assembly in 1979, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is widely regarded as the international bill of rights for women. It defines discrimination against women and establishes comprehensive legal and policy obligations for states to eliminate it across all areas of life.

Some of the most significant provisions of CEDAW include:

▶ **Article 2:** Requires states to adopt legal and policy measures to eliminate discrimination against women.

▶ **Article 7:** Ensures women's right to participate fully in political and public life.

▶ **Article 11:** Guarantees equality in employment and economic opportunities.

▶ **Article 16:** Promotes equality in marriage and family relations.

❏ Monitoring Mechanism

CEDAW is monitored by the Committee on the Elimination of Discrimination against Women, to which state parties are required to submit periodic reports. The Committee reviews these reports, provides recommendations, and advocates for policy reforms to promote gender equality globally.

2.2.2.3 Optional Protocol to CEDAW (1999)

The Optional Protocol to CEDAW, adopted in 1999, significantly strengthened the Convention's enforcement mechanism. It introduced two key procedures:

1. **Individual complaints procedure,** which allows individuals or groups to submit complaints of CEDAW violations

to the Committee after exhausting domestic remedies.

2. **Inquiry procedure** which empowers the Committee to investigate grave or systematic violations of women's rights.

These mechanisms enhance accountability by providing women and civil society organisations with direct access to international redress when national systems fail to deliver justice.

2.2.2.4 UN Women and Global Initiatives

In 2010, the United Nations consolidated several existing bodies, including the Division for the Advancement of Women (DAW), the International Research and Training Institute for the Advancement of Women (INSTRAW), and the United Nations Development Fund for Women (UNIFEM), to form UN Women: the United Nations Entity for Gender Equality and the Empowerment of Women. UN Women leads and coordinates global efforts to advance gender equality. It works closely with governments, civil society, and other UN agencies to implement commitments made under CEDAW and the Beijing Platform for Action. The organisation also promotes gender-responsive budgeting, women's leadership in peace and security, and the elimination of violence against women and girls.

Global Efforts

Major global campaigns spearheaded by UN Women include:

▸ **HeForShe:** A solidarity campaign encouraging men and boys to advocate for gender equality.

▸ **Generation Equality:** A movement aimed at accelerating progress toward gender justice by engaging youth and diverse stakeholders.

Through these initiatives, UN Women ensures that gender perspectives are integrated into all areas of UN work and that global advocacy translates into tangible local action.

2.2.2.5 Implementation Challenges and Criticisms

Despite considerable progress, the global agenda for gender equality continues to face major challenges. Deep-rooted patriarchal norms, cultural resistance, and lack of political commitment often undermine the effective implementation of women's rights conventions. In many countries, enforcement mechanisms remain weak, and gender-sensitive policies suffer from inadequate funding and limited institutional capacity. Critics have pointed out that CEDAW, though comprehensive,

lacks binding enforcement mechanisms and relies heavily on voluntary state compliance. Similarly, the CSW's resolutions, while normatively significant, are often criticised for being more aspirational than actionable.

Moreover, women's experiences of discrimination are not uniform. Intersectional factors - such as race, caste, class, ethnicity, disability, and sexual orientation - compound the challenges faced by women in different contexts. Addressing these multiple layers of inequality requires more nuanced, inclusive, and locally grounded policy responses. In sum, while the UN's frameworks for women's empowerment have created powerful tools for advancing gender justice, their full potential can be realised only through sustained political will, resource commitment, and community-based implementation.

2.2.3 Policies and Programmes of the UNO for Children

Before the 20th century, children were regarded mainly as dependents or property rather than as individuals with distinct rights. Their welfare was seen primarily as a matter of charity or parental responsibility rather than a legal or moral obligation of the state or the international community. The establishment of the United Nations (UN) fundamentally changed this perception by introducing a rights-based approach to childhood.

The first significant international step came with the Declaration of the Rights of the Child (1959), which articulated children's entitlement to care, protection, and education. This declaration laid the groundwork for a more comprehensive and legally binding framework - the Convention on the Rights of the Child (CRC) - adopted in 1989. The CRC transformed the global understanding of children from passive recipients of care to active rights-holders. It remains the most widely ratified human rights treaty in history, affirming the universal responsibility to ensure every child's right to survival, development, protection, and participation.

2.2.3.1 United Nations Children's Fund (UNICEF)

The United Nations Children's Fund (UNICEF) was created in 1946 to provide emergency relief to children affected by the devastation of World War II. Over the decades, its mandate has expanded from post-war assistance to becoming the lead

UN agency dedicated to promoting and protecting children's rights globally. UNICEF's mission is grounded in the Convention on the Rights of the Child (CRC), and its work revolves around ensuring every child's right to survival, development, protection, and participation. It collaborates with national governments, non-governmental organisations (NGOs), and international partners to design policies and implement programmes that improve children's well-being across all stages of life.

Key areas of UNICEF's work include:

▶ Health and Nutrition: Promoting child and maternal health through immunisation drives, nutrition programmes, and clean water initiatives.

▶ Education: Ensuring inclusive and equitable access to quality education, with special attention to girls, children in conflict zones, and those with disabilities.

▶ Child Protection: Preventing and responding to violence, exploitation, and neglect by building robust child protection systems and legal frameworks.

▶ Emergency Response: Providing life-saving assistance to children during conflicts, natural disasters, and humanitarian crises.

▶ Advocacy: Influencing policy reform and mobilising resources to combat child labour, trafficking, and the recruitment of children in armed conflict.

UNICEF adopts a rights-based approach to development, recognising children as active participants in shaping the policies and decisions that affect them. It emphasises that states are duty-bearers responsible for respecting, protecting, and fulfilling these rights through effective legislation, governance, and service delivery.

UNICEF's Name is a Historical Relic

UNICEF originally stood for the United Nations International Children's Emergency Fund, created in 1946 to help European children after WWII. Even though the "Emergency" ended long ago, the name stuck, though it's now officially just UNICEF, like a brand. Today, it's one of the most recognisable UN agencies worldwide, proof that humanitarian branding sometimes works better than bureaucratic acronyms!

The UNICEF Snowflake: A Global Symbol of Hope

The giant UNICEF Snowflake, hanging every December at the intersection of Fifth Avenue and 57th Street in New York City, symbolises hope for the world's children. It was created to remind holiday shoppers that millions of children still lack food, shelter, and education, turning festive cheer into global compassion.

2.2.3.2 Convention on the Rights of the Child (CRC, 1989)

☐ CRC Framework

Adopted by the UN General Assembly in 1989, the Convention on the Rights of the Child (CRC) provides a comprehensive and legally binding framework for the protection and promotion of children's rights. It integrates civil, political, economic, social, and cultural rights, ensuring that children are recognised as full human beings with their own entitlements.

The CRC is founded on four core principles:

1. Non-discrimination (Article 2): Every child is entitled to equal rights without distinction of any kind.

2. Best interests of the child (Article 3): The child's welfare must be a primary consideration in all decisions affecting them.

3. Right to life, survival, and development (Article 6): States must ensure conditions for the child's full physical, mental, and social growth.

4. Respect for the views of the child (Article 12): Children have the right to express their opinions and participate in decisions affecting their lives.

The CRC outlines four broad categories of rights:

▶ Survival Rights, such as access to healthcare, nutrition, and adequate living standards.

▶ Development Rights, such as education, play, and cultural participation.

▶ Protection Rights, such as safeguarding children from abuse, exploitation, and neglect.

▶ Participation Rights, such as ensuring children's freedom of expression and involvement in social and civic matters.

2.2.3.3 Optional Protocols to the CRC

To strengthen the CRC, three Optional Protocols were adopted, expanding its scope and enforcement mechanisms:

1. Optional Protocol on the Involvement of Children in Armed Conflict (2000): Prohibits the recruitment and use of children under 18 in hostilities.

2. Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (2000): Criminalises the exploitation and sale of children in all forms.

3. Optional Protocol on a Communications Procedure (2011): Allows children or their representatives to file complaints with the Committee on the Rights of the Child for violations of their rights once domestic remedies are exhausted.

These protocols collectively strengthen the international legal framework for child protection and accountability.

2.2.3.4 Global Campaigns and Monitoring Mechanisms

The implementation of child rights is monitored by the Committee on the Rights of the Child, which reviews periodic reports submitted by states and issues General Comments to guide the interpretation of the CRC. This process ensures accountability and encourages continuous improvement in national child protection systems.

❒ Monitoring Mechanism

In addition, UNICEF leads several global initiatives to advance the CRC's objectives:

▶ Every Child Alive: Focused on reducing preventable child and maternal deaths.

▶ Education Cannot Wait: Ensures educational continuity for children in crisis and conflict zones.

▶ End Violence Against Children: A global partnership aimed at eradicating physical, sexual, and emotional abuse of children.

Through these campaigns, UNICEF not only provides immediate assistance but also strengthens national capacities to sustain long-term child welfare and protection systems.

2.2.3.5 Status and Implementation Challenges

Although the CRC has achieved near-universal ratification, the reality of children's lives remains far from ideal. Millions of children around the world continue to suffer from poverty, malnutrition, conflict, and exploitation. Problems such as child marriage, child labour, trafficking, online abuse, and displacement due to war or climate change persist in many regions. The implementation of child rights faces numerous challenges, including limited financial resources, weak institutional capacity, political instability, and insufficient data for informed policy planning. In many developing countries, social norms and economic pressures further impede the enforcement of child protection laws. ()

Nevertheless, the CRC and UNICEF's ongoing efforts have significantly influenced global and national policies, leading to measurable progress in child survival, education, and protection. The continued success of these initiatives depends on stronger political commitment, adequate funding, community participation, and the integration of children's voices in shaping decisions that affect their future.

2.2.4 Policies and Programmes of the UNO for Refugees

The term "refugee" refers to an individual who has been forced to flee their country due to a well-founded fear of persecution, conflict, or violence, as defined by the 1951 Convention Relating to the Status of Refugees. Refugees cross international borders seeking protection because their home governments are unable or unwilling to safeguard their rights. In contrast, migrants voluntarily leave their home countries, primarily for economic, social, or educational reasons, and generally retain the protection of their national governments. Internally Displaced Persons (IDPs), meanwhile, are individuals who have fled their homes for similar reasons, such as conflict, persecution, or natural disasters, but remain within their own national borders.

It is essential to distinguish between refugees, migrants, and IDPs, as only refugees fall under the specific international protection framework established by the 1951 Convention and the United Nations High Commissioner for Refugees (UNHCR). This legal distinction ensures that states uphold their humanitarian obligations toward those fleeing persecution and war. ()

- ❏ Implementation Challenges

- ❏ Progress and Way Forward

- ❏ Refugee Definition

- ❏ Legal Distinction

2.2.4.1 United Nations High Commissioner for Refugees (UNHCR): Establishment, Mandate, and Functions

The United Nations High Commissioner for Refugees (UNHCR) was created in 1950 by the UN General Assembly to address the widespread displacement caused by World War II. Its initial mandate, i.e. to protect and assist refugees, has since expanded to include asylum seekers, internally displaced persons (IDPs), returnees, and stateless individuals. UNHCR's work is grounded in the 1951 Refugee Convention and its 1967 Protocol, which together form the cornerstone of international refugee protection. Its mission is to ensure that displaced persons have access to safety, legal status, and essential services, and that their fundamental rights are upheld in accordance with international law.

UNHCR's core functions include:

▶ Emergency Humanitarian Response: Rapidly deploying aid, shelter, and protection in crises caused by conflict or natural disasters.

▶ Durable Solutions: Facilitating long-term outcomes for refugees through voluntary repatriation (safe return home), local integration (settling in the host country), or resettlement (relocation to a third country offering protection and permanent residence).

▶ Legal Protection and Advocacy: Upholding the principle of non-refoulement, ensuring refugees are not returned to danger, and advocating for fair asylum procedures and access to justice.

▶ Monitoring and Capacity Building: Assessing national refugee policies, assisting governments with legal frameworks, and strengthening institutional capacity to meet international obligations.

UNHCR plays a dual role - it is both operational, providing direct humanitarian aid in emergencies, and normative, developing international standards for refugee protection and shaping global asylum policy. Its collaboration with other UN agencies, such as the World Food Programme (WFP) and the International Organization for Migration (IOM), ensures a coordinated global response to displacement crises.

❏ UNHCR Mandate

❏ Roles and Collaboration

2.2.4.2 The 1951 Refugee Convention: Key Provisions

The 1951 Convention Relating to the Status of Refugees is the principal international legal instrument defining the term "refugee" and establishing the rights and obligations of both refugees and host states.

Key provisions include:

- Article 33 – Non-refoulement: States are prohibited from returning refugees to countries where they may face persecution or serious harm.

- Equal Rights: Refugees are entitled to the same treatment as nationals regarding access to courts, elementary education, and public relief.

- Employment and Livelihood: Refugees must have the right to work and to engage in wage-earning employment.

The Convention underscores the shared international responsibility to protect refugees while ensuring that their basic human rights and dignity are preserved.

From Stateless to Recognised: The Nansen Passport

Before UNHCR existed, Norwegian explorer Fridtjof Nansen created the "Nansen Passport" in the 1920s for stateless refugees fleeing post-war Europe. This early humanitarian document, recognised by over 50 countries, laid the groundwork for the modern Refugee Convention of 1951.

2.2.4.3 The 1967 Protocol: Expansion of Protection

Initially, the 1951 Refugee Convention applied only to persons displaced within Europe before 1 January 1951. To address new and ongoing displacement crises worldwide, the 1967 Protocol Relating to the Status of Refugees removed these temporal and geographical restrictions. This amendment made refugee protection universal, ensuring that the Convention's provisions applied to all persons meeting the definition of a refugee, regardless of when or where displacement occurred. Together, the Convention and Protocol form the foundation of modern international refugee law.

❏ Universal Protection

2.2.4.4 Refugee Rights and State Obligations

States that have ratified the 1951 Convention and 1967 Protocol are legally bound to protect refugees within their territories. Their primary obligations include:

▶ Ensuring non-discrimination in the treatment of refugees.

▶ Providing access to fair asylum procedures and legal assistance.

▶ Guaranteeing basic rights such as education, healthcare, and employment.

▶ Respecting the principle of non-refoulement, which prohibits expulsion to danger.

However, balancing humanitarian responsibilities with national interests often proves challenging. Issues such as limited resources, security concerns, and rising xenophobia complicate states' ability to meet their obligations. Strengthening institutional capacity and fostering international cooperation are crucial for ensuring that refugee rights are effectively protected.

❏ Challenges and Cooperation

2.2.4.5 Global Refugee Crises: Syria, Rohingya, and Afghanistan

The 21st century has witnessed unprecedented levels of displacement, with several major crises highlighting the continuing relevance of international refugee protection.

▶ Syria: The civil war that began in 2011 has displaced over 6 million refugees, primarily to neighbouring countries such as Turkey, Lebanon, and Jordan.

▶ Rohingya Crisis: Systematic persecution in Myanmar's Rakhine State forced hundreds of thousands of Rohingya to flee to Bangladesh, creating one of the world's largest refugee camps in Cox's Bazar.

▶ Afghanistan: The political collapse in 2021 intensified displacement, adding to decades of refugee outflows caused by conflict and instability.

In all these situations, UNHCR, in collaboration with partners like the WFP and IOM, continues to provide life-saving assistance, including food, shelter, medical care, and legal aid, while advocating for durable solutions.

2.2.4.6 Challenges and Criticisms of International Refugee Protection

Despite a robust legal foundation, the global refugee protection system faces persistent challenges. Limited funding, uneven burden-sharing, and restrictive asylum policies have undermined the ability of international institutions to respond effectively. Host countries - many of which are developing nations - bear a disproportionate share of responsibility, often without adequate international support. Moreover, growing xenophobia, politicisation of migration, and border securitisation have led some states to undermine the principle of non-refoulement. Protracted refugee situations, where displaced persons remain in camps for years without durable solutions, further reveal systemic weaknesses.

Critics argue that while international conventions set high standards, enforcement mechanisms are weak, and global solidarity is often more rhetorical than practical. Strengthening international cooperation, ensuring equitable responsibility-sharing, and promoting long-term integration strategies are essential to uphold the humanitarian spirit of refugee protection and to make the UN's vision of safety and dignity for all displaced people a global reality.

❐ Global Challenges

❐ Way Forward

2.2.5 India's Role and Response

2.2.5.1 India and CEDAW: Legislation and Compliance

India ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on July 9, 1993, affirming its commitment to promoting gender equality and eliminating discrimination against women across all spheres of life. While India entered reservations to certain provisions - particularly Articles 16 (relating to marriage and family relations) and 29 (concerning arbitration) - it has made notable progress in aligning its domestic laws and policies with the objectives of CEDAW.

❐ India and CEDAW

Key legislative reforms include:

▶ Dowry Prohibition Act (1961) – to combat dowry-related harassment and violence.

▶ Protection of Women from Domestic Violence Act (2005) – providing civil remedies and protection to women facing abuse.

- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013) – ensuring a safe working environment for women.

- Criminal Law (Amendment) Act (2013) – enacted after the 2012 Nirbhaya case, it broadened the definition of sexual violence, introduced stronger penalties, and recognised offences such as stalking and voyeurism.

Alongside legislation, the government has launched several national programmes such as Beti Bachao Beti Padhao, Mahila Shakti Kendra, and One Stop Centres to address gender inequality at the grassroots level. Despite these advances, the CEDAW Committee has highlighted ongoing challenges such as the underrepresentation of women in political institutions, the persistence of patriarchal norms, and the inconsistent implementation of laws across states. While India's legal framework is comprehensive, enforcement remains uneven, particularly in rural and marginalised areas. Strengthening institutional accountability, gender sensitisation in the judiciary and police, and community-based empowerment are key to achieving full compliance with the spirit of CEDAW.

□ Implementation and Challenges

2.2.5.2 India and CRC: Child Protection Mechanisms

India ratified the Convention on the Rights of the Child (CRC) in 1992, reaffirming its commitment to uphold children's rights to survival, development, protection, and participation. Since then, the country has developed an extensive legal and institutional framework for child welfare and safety.

□ India and CRC

Significant legislative and policy measures include:

- Juvenile Justice (Care and Protection of Children) Act (2000, amended 2015): Provides for the care, protection, and rehabilitation of children in conflict with the law and those in need of care.

- Protection of Children from Sexual Offences (POCSO) Act (2012): Strengthens safeguards against sexual exploitation and abuse.

- Right of Children to Free and Compulsory Education Act (2009): Enforces free education for all children aged 6–14 under Article 21A of the Constitution.

- Integrated Child Protection Scheme (ICPS): Offers a coor-

dinated framework to prevent child abuse, trafficking, and child labour.

Institutional mechanisms such as the National Commission for Protection of Child Rights (NCPCR) and state-level commissions monitor policy implementation and address violations of child rights. However, significant challenges remain. Child labour, malnutrition, trafficking, and child marriage persist in many regions. Reports from UNICEF and the NCPCR highlight issues such as poor coordination among agencies, inadequate funding, and delays in legal proceedings. Despite these obstacles, India's adoption of the CRC has established a strong foundation for protecting children's rights and continues to guide policy reform and advocacy efforts nationwide.

2.2.5.3 India and the Refugee Convention: Non-Signatory Status and Refugee Policies

India is not a signatory to the 1951 Refugee Convention or its 1967 Protocol, citing concerns over national security, resource limitations, and the implications of legally binding obligations. Nevertheless, India has a long-standing tradition of providing refuge to those fleeing persecution and conflict on humanitarian grounds. The country currently hosts refugees from Tibet, Sri Lanka, Afghanistan, Myanmar (Rohingya), and Bangladesh, among others. In the absence of a dedicated refugee law, refugee management in India is governed by general statutes such as the Foreigners Act (1946) and the Passports Act (1967), supplemented by executive orders and ad hoc policy decisions. The UNHCR operates in India under limited arrangements, assisting non-Tibetan and non-Sri Lankan refugees. ()

While India's humanitarian approach reflects flexibility and compassion, the lack of a formal legal framework has led to inconsistent treatment of refugees regarding access to employment, education, and healthcare. The Rohingya refugee situation has underscored the delicate balance India must maintain between national security concerns and humanitarian obligations. Legal scholars and human rights advocates have long recommended adopting a comprehensive refugee law that clearly defines rights, responsibilities, and procedures in accordance with international standards.

2.2.5.4 Case Studies from India

▶ The **Nirbhaya Reforms (2013)**: Following the brutal 2012 Delhi gang rape, public outrage prompted the enact-

ment of the Criminal Law (Amendment) Act, 2013. The law expanded the definition of sexual offences, increased penalties for perpetrators, introduced fast-track courts, and established victim compensation schemes. These reforms reflect India's efforts to align domestic laws with the principles of CEDAW, emphasising the protection and dignity of women.

▶ **Juvenile Justice Act (2015)**: The 2015 amendment to the Juvenile Justice Act allows for juveniles aged 16–18 years to be tried as adults for heinous crimes under specific conditions. This change aimed to strike a balance between child protection and accountability, reflecting India's nuanced interpretation of CRC principles amid growing concerns about juvenile delinquency.

▶ **Rohingya Refugees in India**: India's approach to the Rohingya refugee crisis illustrates the challenges faced by a non-signatory state. While humanitarian assistance has been provided, deportation measures and movement restrictions have drawn international criticism. The situation highlights the ongoing tension between domestic policy priorities and global human rights expectations.

2.2.6 Critical Issues and Debates

2.2.6.1 Reservations to Treaties by States

While international treaties establish universal norms, states often make reservations to certain provisions to preserve domestic legal and cultural autonomy. India, for instance, entered reservations to Articles 5 and 16 of CEDAW, citing consistency with national personal laws. Though such reservations are permitted under international law, excessive or ambiguous ones may weaken the treaty's effectiveness. The Vienna Convention on the Law of Treaties (1969) states that reservations incompatible with the object and purpose of a treaty are invalid, yet in practice, determining this remains politically contested.

❑ Treaty Reservations

2.2.6.2 Dualism and Monism in Treaty Implementation

The relationship between international law and domestic law varies across countries. In monist systems, international treaties automatically become part of national law upon ratification. In dualist systems, like India's, treaties must be

incorporated into domestic law through legislation before they can be applied domestically. Consequently, although India has ratified many human rights treaties, their provisions are not automatically enforceable unless reflected in national legislation (for example, the Domestic Violence Act and the Juvenile Justice Act). This dualist framework safeguards parliamentary sovereignty but often delays the implementation of international norms and limits judicial application of human rights obligations.

2.2.6.3 Human Rights and Cultural Relativism

The debate between universalism and cultural relativism questions whether human rights are truly universal or should adapt to cultural and social contexts. While the UN advocates universal human rights, some countries argue that social customs and religious beliefs should guide their interpretation. For example, perspectives on marriage, gender roles, and family life differ widely across societies. Critics of cultural relativism warn that it can justify discrimination or repression, whereas supporters contend that ignoring local values amounts to cultural imperialism. A balanced approach grounded in dialogue, mutual respect, and gradual reform is essential for achieving both universality and cultural legitimacy in human rights practice.

Universal or Contextual?

When CEDAW was adopted, some states entered reservations citing "religious or cultural practices." For instance, Saudi Arabia ratified CEDAW in 2000 but with reservations to all provisions that conflict with Islamic law (Sharia), highlighting the ongoing debate between universalism and cultural relativism in human rights.

2.2.6.4 Towards Global Action

Persistent issues such as gender inequality, child labour, and forced migration continue to expose the gap between global commitments and on-ground realities. Despite CEDAW, women worldwide still face wage disparities, gender-based violence, and underrepresentation in leadership positions. Similarly, millions of children remain engaged in hazardous labour despite the CRC and International Labour Organization (ILO) Conventions No. 138 (Minimum Age) and No. 182 (Worst Forms of Child Labour). Forced migration, driven by conflict, persecution, and climate change, has placed immense strain on

the global refugee protection regime. Initiatives like the Global Compact on Refugees (2018) and the Global Compact for Safe, Orderly and Regular Migration (2018) aim to promote responsibility-sharing and international cooperation. Still, progress remains slow due to national interests and restrictive border policies.

To bridge the gap between principles and practice, the international community must move beyond declarations to collective action - prioritising political will, inclusive policymaking, and robust accountability mechanisms. Only through such efforts can the vision of universal human rights be effectively translated into tangible outcomes at the national and local levels.

❐ Global Action

Summarised Overview

The United Nations plays a pivotal role in shaping global human rights policies through its conventions, specialised agencies, and monitoring mechanisms. For women, the UN established the Commission on the Status of Women (CSW) in 1946 and adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979, which serves as the global charter for women's rights. UN Women, founded in 2010, now leads worldwide initiatives promoting gender equality and women's empowerment. For children, the Convention on the Rights of the Child (CRC) of 1989 remains the most widely ratified human rights treaty, advancing children's rights to survival, development, protection, and participation, while UNICEF implements a range of child-focused programmes worldwide. For refugees, the 1951 Refugee Convention and its 1967 Protocol form the cornerstone of international refugee protection, with the UN High Commissioner for Refugees (UNHCR) working to ensure the safety, legal status, and durable solutions for displaced persons.

India's engagement with these frameworks has been dynamic—it has ratified both CEDAW and the CRC, but not the Refugee Convention. The country has enacted several progressive laws, including the Domestic Violence Act (2005), the Protection of Children from Sexual Offences (POCSO) Act (2012), and the Juvenile Justice Act (2015), to align domestic legislation with international commitments. Nevertheless, challenges persist in areas such as implementation, resource allocation, and reconciling human rights obligations with national interests. The unit concludes with critical debates on treaty reservations, the interaction between international and domestic law, and the influence of cultural diversity on human rights enforcement.

Self-Assessment

1. What are the main objectives of the United Nations Organisation (UNO) with regard to human rights?

2. Explain the significance of CEDAW and discuss its major provisions.

3. Describe the core principles of the Convention on the Rights of the Child (CRC).

4. What are the main responsibilities of UNHCR under the Refugee Convention?

5. Discuss India's response to CEDAW, CRC, and the Refugee Convention.

6. Differentiate between refugees, migrants, and internally displaced persons (IDPs).

7. Explain the concepts of dualism and monism in treaty implementation.

8. Critically analyse the challenges faced by the UN in implementing gender equality and refugee protection globally.

Assignments

1. Prepare a short essay (800–1000 words) on "The Role of the United Nations in Protecting the Rights of Vulnerable Groups."

2. Analyse India's compliance with either CEDAW or CRC by citing relevant legislation and programmes.

3. Evaluate the effectiveness of UNHCR's response to any one major refugee crisis (e.g., Syria, Rohingya, or Afghanistan).

4. Discuss the challenges of balancing national sovereignty with global human rights obligations using relevant examples.

Reference

1. *United Nations. (1945). Charter of the United Nations.*

2. *United Nations. (1979). Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).*

3. *United Nations. (1989). Convention on the Rights of the Child (CRC).*

4. *United Nations. (1951). Convention Relating to the Status of Refugees.*

5. *Rhona K. M. Smith. (2021). Textbook on International Human Rights (9th ed.). Oxford University Press.*

6. *UNICEF. (2023). The State of the World's Children 2023. New York: United Nations Children's Fund.*

7. *UNHCR. (2022). Global Trends: Forced Displacement in 2022. Geneva: UNHCR.*

Suggested Reading

1. Todres, J., Wojcik, M. E., & Revaz, S. A. (2006). The United Nations Convention on the Rights of the Child: An Analysis of Treaty Provisions and Implications for U.S. Ratification. Transnational Publishers.

2. Goodwin-Gill, G. S., & McAdam, J. (2021). The Refugee in International Law (4th ed.). Oxford University Press.

3. Alston, P., & Goodman, R. (2013). International Human Rights. Oxford University Press.

4. Donnelly, J. (2013). Universal Human Rights in Theory and Practice (3rd ed.). Cornell University Press.

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

Role of International Non-Governmental Organisations (INGOs)

Learning Outcomes

By the end of this unit, learners will be able to:

▶ trace the historical evolution and development of INGOs in the global human rights movement.

▶ explain the role and core functions of major INGOs, such as Amnesty International, and Human Rights Watch (HRW) in advancing human rights.

▶ analyse the methodologies and operational strategies used by INGOs and supranational courts in protecting human rights.

▶ evaluate the impact and influence of landmark cases and campaigns undertaken by global human rights actors.

▶ assess the influence of INGOs on international human rights policies and legal frameworks.

▶ critically examine the limitations and challenges faced by these institutions in addressing systemic injustices.

▶ reflect on the interplay between legal enforcement, advocacy, and transnational activism in shaping global human rights discourse.

Background

The global human rights protection framework has evolved significantly since the mid-20th century, moving from state-centric legal commitments to a dynamic field shaped by both institutional authority and civil society activism. While the United Nations remains a foundational pillar, the practical protection and promotion of human rights often rest in the hands of diverse actors working beyond formal state structures. International non-governmental organisations (INGOs) such as Amnesty International and Human Rights Watch have become vital watchdogs. With their independent fact-finding missions, thematic campaigns, and legal advocacy, these organisations influence global

debates and pressure states into compliance with human rights norms. At the same time, regional mechanisms offer binding adjudication and legal remedies, empowering individuals to hold governments accountable at the supranational level.

This unit invites learners to explore the pluralistic nature of global human rights enforcement. By examining the history, strategies, successes, and shortcomings of AI, and HRW, students gain insight into how advocacy, litigation, and public pressure converge to uphold justice and human dignity across diverse political and cultural contexts.

Keywords

Amnesty International, Human Rights Watch (HRW), Transnational Advocacy, Legal Enforcement, Human Rights Monitoring

Discussion

2.3.1 Introduction

The contemporary human rights movement cannot be understood without recognising the indispensable role of International Non-Governmental Organisations (INGOs). Emerging from early humanitarian and abolitionist movements of the nineteenth century, INGOs have evolved into dynamic agents of global governance. They bridge the gap between moral ideals and political realities, giving civil society a powerful voice in the international arena. Following the establishment of the United Nations and the adoption of the Universal Declaration of Human Rights (1948), INGOs became formal participants in the institutional framework of global human rights advocacy. Over time, they have expanded from humanitarian assistance and emergency relief to encompassing wide-ranging concerns such as the abolition of torture, gender equality, environmental justice, and digital rights.

❏ Evolution of INGOs

The organisations such as Amnesty International and Human Rights Watch (formerly Asia Watch) exemplify this evolution. Their independent research, documentation of abuses, and sustained advocacy efforts have shaped international law, influenced national policy reforms, and transformed public consciousness. INGOs not only act as watchdogs against human rights violations but also as architects of global norms,

mobilising citizens across borders and connecting local struggles to global accountability mechanisms. This unit explores the evolution, roles, and functions of INGOs, with a particular focus on Amnesty International and Asia Watch (Human Rights Watch). It further examines how these organisations influence the formulation and implementation of human rights policies at both global and national levels.

2.3.2 International Non-Governmental Organisations (INGOs)

2.3.2.1 Evolution of INGOs

International Non-Governmental Organisations (INGOs) have become indispensable actors in the global human rights system. Their evolution is closely tied to the expansion of global governance and the internationalisation of humanitarian concerns in the twentieth century. The earliest precursors to modern INGOs emerged in the nineteenth century, with the rise of transnational campaigns against slavery, the establishment of the International Committee of the Red Cross (ICRC) in 1863, and international peace movements. These initiatives reflected a growing recognition that moral and humanitarian issues transcended national borders.

After World War II, the creation of the United Nations (1945) and the adoption of the Universal Declaration of Human Rights (1948) provided a formal normative framework for INGOs to engage with states and international institutions. The post-war period witnessed the institutionalisation of civil society participation, leading to the proliferation of INGOs working on human rights, development, and humanitarian relief. During the Cold War, INGOs such as Amnesty International (1961) and Human Rights Watch (1978) gained prominence by documenting human rights abuses, supporting political prisoners, and pressuring governments to uphold civil and political rights. The 1980s and 1990s saw further expansion, with INGOs playing key roles in campaigns against apartheid, the death penalty, torture, and enforced disappearances. The rise of digital technology and global communications has further transformed their methods of mobilisation and advocacy, allowing for real-time documentation and rapid global responses to crises. ()

2.3.2.2 Role and Functions of INGOs

International Non-Governmental Organisations (INGOs) play a pivotal role in advancing human rights globally. Their trans-

- Amnesty and Human Rights Watch

- Origin of INGOs

- Post-War Expansion

national presence allows them to influence both global policymaking and local accountability mechanisms. Their global credibility and technical expertise lend transparency and rigour to human rights monitoring. INGOs often fill critical data gaps in conflict zones and restricted areas, playing an essential role in shaping international responses to crises. **()**

INGOs perform a wide range of functions:

▶ Monitoring and Documentation: Investigating and reporting human rights violations.

▶ Advocacy and Campaigning: Mobilising public opinion and lobbying international bodies.

▶ Legal and Policy Engagement: Contributing to treaty-making, reforming national laws, and influencing international standards.

▶ Support to Victims: Providing legal aid, rehabilitation, and psychological support.

▶ Networking: Building transnational solidarity between local activists and international platforms.

The United Nations recognises INGOs' significance by granting them consultative status with ECOSOC and involving them in Human Rights Council sessions. This includes opportunities to deliver oral statements, participate in side events, and contribute to thematic discussions. INGOs act as watchdogs, bridge-builders between local and global actors, and pressure groups advocating for systemic reform. Their work reinforces the credibility and responsiveness of the international human rights framework.

2.3.3 Amnesty International

2.3.3.1 Origins and Evolution

Amnesty International (AI) was established in 1961 by British lawyer Peter Benenson, who was moved to action by the imprisonment of two Portuguese students for raising a toast to freedom. What began as a modest campaign to free "prisoners of conscience" soon evolved into a global movement that today spans more than 150 countries and boasts over 10 million members and supporters. Amnesty's mission is anchored in the principles of the Universal Declaration of Human Rights, advocating for the full spectrum of civil, political, economic, social, and cultural rights. AI is committed to impartiality and

independence, operating without affiliation to any government, ideology, or economic interest, traits that have helped it become one of the most trusted voices in international human rights advocacy.

2.3.3.2 Core Methodologies

Amnesty's operational approach combines long-standing field methods with emerging tools and strategies to ensure the accuracy, relevance, and reach of its work in a complex global environment:

- ▶ **Field Investigations:** AI deploys specialised researchers to areas affected by conflict, authoritarian rule, or humanitarian crises. These fieldworkers conduct interviews with victims, witnesses, and local actors; gather photographic and documentary evidence; and triangulate findings with satellite imagery or open-source intelligence when possible. This meticulous approach ensures that reports are grounded in reliable, verifiable data that can withstand legal and public scrutiny.

- ▶ **Urgent Action Network:** Launched in 1973, this pioneering grassroots tool empowers individuals around the world to act rapidly in the face of human rights violations. When a person is at risk of torture, execution, or other forms of abuse, Amnesty International issues an Urgent Action alert—mobilising its supporters to send appeals to governments, embassies, and institutions. These appeals take the form of letters, emails, faxes, and increasingly, social media campaigns. This swift collective action often places critical pressure on authorities, helping to prevent abuses and secure the release or protection of those under threat.

- ▶ **Thematic Campaigns:** AI has spearheaded a wide array of global initiatives addressing systemic and emerging human rights issues. Campaigns such as "Stop Violence Against Women," "My Body, My Rights," and "End the Death Penalty" mobilise millions worldwide through public education, legal advocacy, strategic media engagement, and grassroots activism. These campaigns are designed not only to raise awareness but to drive legislative reforms, challenge social norms, and amplify the voices of affected communities in both local and global forums.

- ▶ **Annual Reports:** AI publishes the *State of the World's Human Rights*, an authoritative global assessment that doc-

<div style="float:left">

❑ Origins and mission

❑ Evidence-based research

❑ Rapid global mobilisation

❑ Global advocacy campaigns

</div>

uments trends, achievements, and challenges in over 150 countries. Drawing on field data, legal analysis, and eye-witness accounts, the report provides a detailed account of government conduct, civil liberties, and structural inequalities. These reports are frequently cited by academics, policymakers, international organisations, and the media, serving both as a record of accountability and a benchmark for reform.

❒ Global human rights review

2.3.3.3 Achievements and Influence

Amnesty International has played a transformative role in shaping the global human rights agenda by:

▶ Leading efforts in drafting and advocating for landmark international treaties, including the UN Convention Against Torture, which prohibits inhumane treatment worldwide, and the Arms Trade Treaty, which regulates the global arms trade to prevent human rights abuses and atrocities.

❒ Treaty influence

▶ Promoting the global abolition of the death penalty by leading research, public campaigns, and policy advocacy that have contributed to several countries repealing or limiting capital punishment laws. AI's sustained efforts have helped shift public opinion and influenced legislative reforms across diverse legal systems.

❒ Ending capital punishment

▶ Defending and securing the release of prisoners of conscience, individuals imprisoned solely for their beliefs, ethnicity, sexual orientation, or peaceful expression. This includes iconic figures like Nelson Mandela, as well as countless lesser-known activists, journalists, and ordinary citizens around the world who have faced persecution for standing up for human rights.

❒ Advocacy for detainees

When Activism Won the Nobel

In 1977, Amnesty International won the Nobel Peace Prize for "its campaign against torture," marking a rare moment when an NGO was honoured for global moral leadership rather than political power.

2.3.3.4 Critiques and Challenges

Despite its contributions, AI has encountered a range of legitimate criticisms from scholars, governments, and civil society actors:

▶ Critics contend that Amnesty International's focus tends to be skewed toward human rights violations in developing

countries or regions of geopolitical interest, while powerful Western nations are often subjected to less critical scrutiny. This perceived imbalance raises concerns about neutrality and fairness, despite the organisation's stated commitment to impartiality.

☐ Western Bias

▶ In regions experiencing conflict or repression, AI often encounters significant barriers to direct access. As a result, it may rely on secondary sources, such as local NGOs, media reports, or remote interviews, to compile its findings. While this approach enables continued documentation of abuses in restricted environments, it has also drawn criticism over the potential challenges in independently verifying claims, raising concerns about accuracy, balance, and the robustness of its fact-checking processes.

☐ Selectivity and Access

▶ Some observers argue that Amnesty International occasionally expands its advocacy to cover emerging or contentious issues, such as digital rights, environmental justice, or re productive technologies, where international consensus or legal standards are still evolving. This has led to debates over whether such extensions risk diluting AI's core mission or compromising its legal precision.

☐ Overreach

Despite these challenges, Amnesty International continues to be a foundational force in the global human rights landscape. It exemplifies what Donnelly (2017) describes as "normative power through citizen engagement", mobilising individuals worldwide to challenge injustice, demand accountability, and build a culture of universal human rights.

☐ Global civic power

A Toast That Sparked a Global Movement "The Forgotten Toast" – Origins of Amnesty International

In 1961, British lawyer Peter Benenson read a short article about two Portuguese students jailed for raising a toast to freedom under the Salazar dictatorship. Outraged, he wrote an editorial titled "The Forgotten Prisoners" in The Observer newspaper, calling for an international campaign. That article sparked Amnesty International. What began as a letter-writing campaign is now a 10-million-member global human rights organisation.

2.3.4 Human Rights Watch (HRW) and Asia Watch

2.3.4.1 Historical Origin and Consolidation

Human Rights Watch (HRW) was founded in 1978 with the creation of Helsinki Watch, an organisation dedicated to

monitoring the Soviet Union's adherence to the 1975 Helsin-ki Accords on human rights and security. As global interest in regional human rights expanded, HRW broadened its focus by establishing Asia Watch in 1985 to document abuses in Asian countries. This was followed by the creation of Africa Watch, Middle East Watch, and Americas Watch, each concentrating on specific regions. By 1988, these distinct branches were uni-fied under the umbrella of Human Rights Watch, forming one of the world's most influential and globally active human rights organisations.

Global formation

2.3.4.2 Scope and Operational Strategies

HRW operates in more than 90 countries, combining tradi-tional investigative practices with innovative digital tools to uncover and document human rights violations with accura-cy and immediacy:

On-the-ground fieldwork

▶ HRW researchers travel to areas experiencing conflict, au-thoritarian repression, or systemic injustice to gather first-hand evidence. Through interviews with victims and wit-nesses, examination of physical sites, and collaboration with local civil society groups, they document abuses with a commitment to accuracy, ethical reporting, and the protec-tion of vulnerable sources.

▶ HRW leverages advanced technologies such as satellite imagery, digital forensics, open-source intelligence, and data visualisation to substantiate its findings. These tools enhance the accuracy, timeliness, and transparency of its re-porting, especially in inaccessible or high-risk areas where traditional fieldwork may be limited.

Technological tools

Strategic advocacy

▶ HRW employs a "naming and shaming" strategy to spot-light violators, combining public exposure with targeted media outreach, high-impact storytelling, and diplomatic engagement. By putting reputational pressure on abusive actors and leveraging international attention, HRW seeks to influence policy change and deter future violations.

2.3.4.3 Key Focus Areas

Civil and Political Rights

▶ HRW actively documents abuses, including mass surveil-lance without legal safeguards, arbitrary detention without due process, systemic police brutality, and restrictions on freedom of expression and the press. These efforts highlight violations of key rights enshrined in international treaties such as the International Covenant on Civil and Political

Rights (ICCPR) and seek to pressure states to uphold their legal and moral obligations.

❐ Social Rights

▶ HRW focuses on key areas such as gender equity, child labour, reproductive health, and access to education, recognising these as foundational to human dignity and well-being. Its reports have challenged systemic barriers to girls' education, exposed exploitative labour practices affecting children, and advocated for equitable access to reproductive health services. Through evidence-based campaigns and legal advocacy, HRW works to hold states accountable for fulfilling their economic, social, and cultural rights obligations under international human rights law.

❐ Conflict monitoring and reporting

▶ HRW has played a pivotal role in documenting war crimes, crimes against humanity, and other serious violations of international law in countries like Syria, Myanmar, Sri Lanka, and Afghanistan. Through detailed investigations, survivor testimonies, satellite imagery, and collaboration with local partners, HRW's reports have not only drawn global media attention but also informed international legal proceedings, sanctions, and advocacy campaigns for accountability.

❐ LGBTQ+ Rights Advocacy

▶ HRW has played a key role in spotlighting abuses faced by LGBTQ+ individuals, particularly where sexual orientation and gender identity intersect with other vulnerabilities such as race, disability, or immigration status. Its investigations have exposed discriminatory laws, state-sponsored violence, and social exclusion. By amplifying the voices of marginalised communities and advocating for inclusive legal frameworks, HRW has contributed to reshaping global conversations on identity, dignity, and equal protection under international human rights law.

2.3.4.4 Funding and Independence

HRW does not accept funding from governments in order to maintain its operational and editorial independence. Its financial support primarily comes from private individuals, philanthropic foundations, and institutional donors, including the Open Society Foundations. This funding model helps ensure HRW's ability to critique any state or actor without fear of political reprisal. However, its association with certain high-profile donors has at times led to claims of ideological partiality, which HRW addresses through transparency initiatives and adherence to strict research protocols.

❐ Donor independence

2.3.4.5 Criticisms and Constraints

Perceived Bias

▶ Similar to AI, HRW has been criticised for an alleged imbalance in coverage - intensively scrutinising human rights violations in some countries while being less vocal about abuses in others, particularly in Western or geopolitically aligned states. While HRW maintains that its work is based on severity, scale, and access to information, critics argue that the perceived asymmetry can undermine its credibility and the universality of its message.

Mission stretch

▶ Critics argue that HRW occasionally extends its scope to address emerging or politically sensitive issues, such as environmental justice, corporate accountability, or digital surveillance, that fall outside the traditional definitions of civil and political rights. While these areas are increasingly recognised as integral to human dignity, some observers express concern that this broader focus may risk stretching the organisation's resources and diluting the clarity of its original mission.

Influence limits

▶ HRW lacks formal enforcement mechanisms, which means its ability to influence outcomes often hinges on the willingness of states to act upon its findings and the strength of public and media pressure. Its impact is thus mediated through soft power, mobilising shame, diplomacy, and citizen advocacy rather than direct legal compulsion.

Nonetheless, HRW's rigorously researched reports and extensive global presence have positioned it as a leading authority in international human rights advocacy, trusted by courts, policymakers, and civil society actors alike.

The Power of Naming and Shaming

Why HRW Doesn't Need a Courtroom HRW doesn't prosecute. Instead, it exposes. In countries like Syria, Myanmar, or Sudan, its reports have triggered: UN investigations, Global sanctions, International prosecutions. Sometimes, public shame is stronger than legal summons.

2.3.5 INGO's Influence on Human Rights Policies

International Non-Governmental Organisations (INGOs) such as Amnesty International and Human Rights Watch (Asia Watch) have played a transformative role in shaping global and national human rights policies. Their work has transcend-

ed mere advocacy to influence the evolution of international law, domestic policy, and the moral consciousness of global citizenship. By combining meticulous documentation, sustained campaigning, and strategic engagement with intergovernmental institutions, these organisations have positioned themselves as indispensable actors in the architecture of global governance.

- ▶ **Norm Development:** INGOs have been central to the creation, diffusion, and consolidation of international human rights norms. Through research-based advocacy and participation in global negotiations, they have contributed to the drafting, refinement, and ratification of landmark international treaties. For example, Amnesty International played a critical role in mobilising global opinion that eventually led to the Convention Against Torture (UNCAT, 1984) and the Arms Trade Treaty (2013).

- ▶ **Norm Entrepreneurship:** Their persistent engagement with UN agencies, state delegations, and expert committees has also reinforced the universality and indivisibility of rights embodied in the International Covenants on Civil and Political Rights (ICCPR) and Economic, Social and Cultural Rights (ICESCR). By framing human rights violations not as isolated events but as systemic injustices requiring international response, INGOs have helped embed human rights norms into international law, diplomacy, and public policy. This process of "norm entrepreneurship" has redefined sovereignty itself, transforming it from an absolute claim of power into a responsibility to uphold human dignity.

- ▶ **Policy Reform:** The investigative reports and advocacy campaigns of INGOs routinely serve as catalysts for domestic and international policy reform. Their field-based research, published in widely circulated annual reports and country briefings, exposes human rights abuses and recommends legislative and administrative reforms. Governments often respond to such reports by reviewing policies on policing, detention, censorship, or judicial independence. For instance, Human Rights Watch's documentation of civilian casualties in conflict zones such as Syria, Myanmar, and Sri Lanka has influenced UN resolutions and informed the establishment of international fact-finding missions. Similarly, Amnesty International's campaigns against the death penalty and gender-based violence have prompted reforms in penal codes, anti-torture legislation, and laws on

sexual and reproductive rights in several countries. In this way, INGOs act as policy intermediaries, bridging the gap between normative ideals and practical governance reforms.

▶ **Accountability Mechanisms:** A major contribution of INGOs lies in strengthening accountability and monitoring frameworks within the international human rights system. They regularly submit shadow or alternative reports to UN treaty-monitoring bodies and the Universal Periodic Review (UPR) process, offering independent, evidence-based assessments that often reveal discrepancies between a state's self-reporting and the actual situation on the ground. Such interventions ensure that grassroots realities inform international assessments and that governments are held accountable for their commitments under human rights treaties.

▶ **Judicial Engagement:** INGOs also provide expert testimony before international tribunals, contribute to the documentation of war crimes, and assist victims in bringing cases before regional courts such as the European Court of Human Rights or the Inter-American Court of Human Rights. This watchdog function reinforces transparency, deters impunity, and contributes to the progressive development of international human rights jurisprudence.

▶ **Public Mobilisation**: One of the most distinctive contributions of INGOs is their ability to translate human rights norms into popular movements. Through global campaigns, social media advocacy, and community engagement, they transform abstract legal norms into accessible moral imperatives. Amnesty International's "Write for Rights" campaign, for example, mobilises millions of individuals annually to advocate for prisoners of conscience, showing how ordinary citizens can participate directly in transnational justice. Similarly, Human Rights Watch's multimedia storytelling and investigative documentaries humanise distant suffering and galvanise global empathy. By turning human rights into a citizen-driven movement, INGOs democratise global governance and ensure that rights are not merely negotiated among elites but demanded and defended by people worldwide.

2.3.5.1 Global Solidarity Networks

INGOs serve as vital connective tissue in the global human rights ecosystem, linking local struggles to international platforms. They amplify the voices of marginalised communities,

refugees, indigenous peoples, women, LGBTQIA+ groups, and victims of state violence, by situating their experiences within universal human rights frameworks. Through partnerships with local NGOs, legal aid groups, journalists, and academic institutions, INGOs create transnational advocacy networks that can exert pressure on governments and international organisations alike. These alliances not only enhance the visibility of local injustices but also ensure that global norms are contextualised and responsive to diverse cultural realities. In effect, INGOs operate as bridges between the global and the local, reinforcing solidarity, accountability, and shared moral responsibility across borders.

❑ Transnational Network

Human Rights on the Big Screen

Movies like *Hotel Rwanda* (2004) and *The Constant Gardener* (2005) drew heavily on reports by HRW and Amnesty International. These films brought human rights issues to a mass audience, blending activism with art.

Think About It

If Amnesty International began with a single newspaper article and HRW with one regional committee, what kind of human rights organisation could you start today using just your smartphone?

2.3.6 Conclusion

International Non-Governmental Organisations represent one of the most transformative forces in the global human rights landscape. From their historical roots in humanitarian activism to their modern role in international law and policymaking, INGOs have continually redefined how human rights are articulated, protected, and enforced. Through advocacy, documentation, and global mobilisation, organisations such as Amnesty International and Human Rights Watch have demonstrated that moral persuasion, citizen engagement, and credible research can often achieve what political diplomacy cannot. Their influence extends beyond exposing violations; they help establish global norms, reform legal systems, and hold governments and corporations accountable to international standards.

While INGOs face persistent challenges, ranging from political pressures and accusations of bias to limitations in access

and enforcement, their contribution remains foundational to the functioning of a just global order. As Gary B. Madison (1998) observed, they serve as "moral counterweights" to the excesses of state and market power, ensuring that the pursuit of human rights remains grounded in ethics, empathy, and shared human responsibility. In an increasingly interconnected world, the role of INGOs continues to evolve. Their capacity to mobilise transnational solidarity and to influence both local and global policy ensures that they remain at the heart of contemporary human rights governance, transforming ideals into action and principles into practice.

Summarised Overview

This unit explores the evolution, operational strategies, and impact of three major global human rights actors, Amnesty International, and Human Rights Watch. Through an in-depth study, it becomes clear that global human rights protection is not the exclusive domain of intergovernmental institutions but a pluralistic field in which civil society organisations, courts, and advocacy groups all play vital roles. These actors deploy a wide range of tools, legal rulings, public mobilisation, digital evidence gathering, and strategic campaigning, to expose violations, defend victims, and influence policy reform.

Despite facing challenges such as political pushback, limited resources, and issues of legitimacy, these organisations continue to shape both normative debates and institutional practices. They reflect the adaptive, multi-scalar nature of the global human rights system, capable of responding to emergent crises, supporting legal frameworks, and mobilising global solidarity. This unit thus encourages learners to think critically about how enforcement, resistance, and reform are mediated through diverse and often complementary mechanisms.

Self-Assessment

1. What is the historical context behind the founding of Amnesty International?

2. What methodologies does HRW use to investigate human rights violations?

3. Compare the strengths and limitations of AI and HRW in shaping global policy.

4. How do public campaigns and grassroots advocacy complement legal enforcement?

Assignments

1. Compare and contrast the advocacy strategies of Amnesty International and Human Rights Watch. Discuss how each balances independence, objectivity, and advocacy.

2. Draft a memo advising a fictional state on how to respond to a critical report by HRW while engaging in constructive dialogue and reform.

3. Investigate a recent human rights campaign by AI or HRW (e.g., related to digital rights or gender-based violence) and assess its success in mobilising public and institutional support.

Reference

1. *Donnelly, J. (2017). International Human Rights (4th ed.). Routledge.*

2. *Smith, R. (2014). Textbook on International Human Rights (6th ed.). Oxford University Press.*

3. *Shelton, D. (Ed.). (2013). The Oxford handbook of international human rights law. Oxford University Press.*

4. *Shelton, D. L. (2010). Regional protection of human rights. Oxford University Press.*

5. *Amnesty International. (2023). The State of the World's Human Rights. https://www.amnesty.org*

6. *Human Rights Watch. (n.d.). Country Reports and Publications. https://www.hrw.org*

Suggested Reading

1. Keck, M. E., & Sikkink, K. (1998). Activists beyond borders: Advocacy networks in international politics. Cornell University Press.

2. Steiner, H. J., Alston, P., & Goodman, R. (2008). International Human Rights in Context: Law, Politics, Morals (3rd ed.). Oxford University Press.

3. Sikkink, K. (2011). The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics. W. W. Norton & Company.

4. International Justice Resource Center: https://ijrcenter.org

5. Open Global Rights: https://www.openglobalrights.org

6. UN Human Rights Office Digital Library: https://digitallibrary.un.org

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

BLOCK 3
Indian Constitution and Human Rights

UNIT 1

Constitutional Safeguards in India

Background

India's Constitution is a transformative document born out of a long and arduous struggle for freedom. It represents a collective resolve to build an inclusive, democratic society grounded in human dignity and equality. Drafted in the aftermath of colonial rule, the Constitution sought not only political independence but also socio-economic justice for all.

The makers of the Indian Constitution were deeply influenced by global experiences in constitutional governance and international human rights instruments like the Universal Declaration of Human Rights (UDHR). Drawing from these inspirations, they created a legal framework that was as much about securing rights as it was about healing the historical wounds of caste, class, gender, and religious discrimination.

This unit introduces the essential constitutional mechanisms that safeguard human rights in India, including the Preamble, Fundamental Rights, Directive Principles, and Duties. It also highlights the pivotal role of the judiciary and international treaty bodies in evolving a dynamic interpretation of these rights to meet contemporary challenges.

Discussion

3.1.1 Introduction

☐ Foundational values

The Constitution of India, adopted on January 26, 1950, is not merely a legal document but a profound expression of India's commitment to justice, liberty, equality, and fraternity, values that are deeply rooted in the human rights discourse and were shaped by the nation's fight for independence and the desire to overcome centuries of oppression, discrimination, and exclusion. It represents the culmination of India's historic struggle for independence and a collective aspiration to build a democratic and inclusive society. These principles, articulated in the Preamble, form the moral and philosophical foundation of the Indian Republic.

☐ Social revolution

As Granville Austin (1966) describes, the Constitution embodies the vision of a social revolution aimed at transforming a deeply hierarchical society into a more egalitarian one. The framers, informed by both the freedom struggle and global developments in constitutional law, envisioned a robust legal framework where human rights and constitutional values would converge to create a just social order. This unit explores the Indian Constitution's mechanisms for safeguarding human rights through the Preamble, Fundamental Rights, Directive Principles of State Policy (DPSPs), and Fundamental Duties, and introduces key judicial interpretations and the role of international treaty bodies in shaping constitutional law in India.

Granville Austin – The Foreigner Who Knew India's Soul

The American constitutional expert Granville Austin called India's Constitution "the first and only social revolution in the guise of a legal document." His works, "The Indian Constitution: Cornerstone of a Nation" and "Working a Democratic Constitution," remain foundational readings in Indian constitutional scholarship.

3.1.2 The Constitutional Vision and the Preamble

The Preamble serves as the soul of the Constitution, declaring India as a "Sovereign Socialist Secular Democratic Republic" and ensuring justice, liberty, equality, and fraternity to all citizens. These foundational values are not just political or ideological declarations; they are deeply intertwined with the principles of human rights as understood globally. Justice, liberty, and equality correspond to civil and political rights, while fraternity underlines the spirit of solidarity and respect for human dignity. These principles are not symbolic alone; they inform the structure and function of the government and its relationship with the people, providing both moral direction and constitutional clarity. According to Granville Austin, the Preamble reflects the fusion of individual freedom with socio-economic justice, thereby serving as the guiding philosophy behind all constitutional provisions. D.D. Basu underscores its binding nature, asserting that while it is non-justiciable, the Preamble is vital for interpreting ambiguous or conflicting provisions of the Constitution and aligns the document with both national aspirations and international human rights norms.

☐ Preamble's ideals

The Preamble of the Indian Constitution

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens: JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation; IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION."

3.1.2.1 Human Dignity and Democratic Values

The idea of human dignity lies at the heart of the Preamble's affirmation of fraternity, which implies a sense of unity and respect among all citizens. Fraternity is not limited to national unity; it also connotes social cohesion and mutual respect that transcends caste, class, religion, or language. The Preamble's emphasis on justice, social, economic, and political, as well as liberty of thought, expression, belief, and worship collectively underscores the Constitution's dedication to safeguarding the inherent dignity of every individual. These guarantees are not abstract ideals; they form the practical and philosophical basis

upon which the rights of citizens are protected. Thus, the Preamble sets the tone for the rest of the Constitution by affirming that the worth of every human being is central to India's democratic project and signalling the State's duty to preserve, nurture, and uplift that dignity through its laws and policies.

3.1.3 Fundamental Rights (Articles 12-35)

Fundamental Rights are the cornerstone of India's constitutional democracy, forming the essential framework that guarantees individual freedom and equality within the legal system. As legally enforceable rights, they provide a protective shield against arbitrary actions by the State and safeguard civil liberties such as free speech, equality before the law, and protection from discrimination. They also reflect a commitment to socio-economic justice through provisions on education, livelihood, and dignity. Inspired by global human rights charters, most notably the Universal Declaration of Human Rights (UDHR), the framers of the Indian Constitution deliberately crafted these rights to resonate with internationally accepted human rights standards while addressing India's unique socio-political realities. Importantly, these rights are not static or confined to the original text; they have expanded significantly over time through progressive and activist interpretations by the judiciary. This evolutionary nature ensures that the rights remain relevant and responsive to emerging challenges such as privacy in the digital age, environmental justice, and gender equality.

a. Right to Equality (Articles 14–18)

This cluster ensures legal egalitarianism and non-discrimination by explicitly recognising the intrinsic equality of all individuals under the law. Article 14 guarantees equality before the law and equal protection of laws, forming the bedrock of legal fairness and administrative justice. It serves as the foundation for challenging discriminatory laws and arbitrary state actions. Article 15 prohibits discrimination on grounds of religion, race, caste, sex, or place of birth, promotes inclusivity and social justice, and allows the State to make special provisions for women, children, and socially disadvantaged groups. Article 16 furthers this commitment by ensuring equal opportunity in public employment, striking at the roots of exclusion based on background or identity. Article 17 abolishes untouchability in all its forms, criminalising practices rooted in caste discrimination and reinforcing human dignity. Article 18 abolishes titles, thereby rejecting hierarchical markers of privilege and reinforc-

ing the democratic ethos of equality in status and opportunity. **(Legal equality)**

b. Right to Freedom (Articles 19–22)

These provisions affirm and protect the essential components of individual liberty, which lie at the heart of a democratic society. Article 19 provides six fundamental freedoms—of speech and expression, peaceful assembly, forming associations or unions, movement throughout the territory of India, residence in any part of the country, and the right to practice any profession or carry on any occupation, trade, or business. These rights are indispensable for personal autonomy, civic engagement, and the effective functioning of democratic institutions. Article 20 ensures protection against conviction for offences, including safeguards against retrospective criminal laws, double jeopardy, and self-incrimination. Article 21, one of the most judicially expanded provisions, guarantees the right to life and personal liberty, encompassing not just physical existence but a life with dignity. Through landmark judgments like Maneka Gandhi v. Union of India (1978), the Supreme Court established that any law affecting life or liberty must pass the tests of fairness, justice, and reasonableness, integrating Articles 14, 19, and 21 into a unified framework. In the K.S. Puttaswamy v. Union of India (2017) case, the right to privacy was recognised as intrinsic to Article 21, affirming the constitutional protection of personal autonomy in the digital age. Article 22 provides further safeguards, such as the right to be informed of the grounds of arrest, the right to consult a legal practitioner, and protection against arbitrary detention, including specific rights for those arrested under preventive detention laws.

❏ Liberty protections

Liberty, Equality, and Fraternity: A Comparative View of the French and Indian Constitutions

The ideals of liberty, equality, and fraternity, born out of the French Revolution, significantly shaped both the French and Indian Constitutions, though with distinct emphases reflecting their historical and social contexts.

In France, liberty stems from the Declaration of the Rights of Man and of the Citizen (1789). It is embedded in the Constitution of the Fifth Republic (1958), protecting freedoms such as speech, assembly, and religion. Judicial oversight by the Constitutional Council ensures that laws respect these rights. In India, liberty is codified under Articles 19–22, with Article 21 expansively interpreted by the Supreme Court. In Maneka Gandhi v. Union of India (1978), liberty was broadened to include fairness, dignity, and due process, while Justice K.S. Puttaswamy v. Union of India (2017) recognised privacy as intrinsic to liberty.

Equality in France emphasises formal equality, ensuring that all citizens are equal before the law without distinction of origin, race, or religion (Article 1 of the 1958 Constitution). This principle underlies France's secular laïcité, which stresses uniformity in public life. India, however, pursues substantive equality. Articles 14–18 guarantee equality and prohibit untouchability and discrimination, while affirmative action policies address historical injustices. In Indra Sawhney v. Union of India (1992), the Supreme Court upheld reservations for backward classes, reinforcing equality as social justice.

Fraternity in France emphasises national unity and civic solidarity, often requiring assimilation into a common republican identity. In India, fraternity, mentioned in the Preamble, is linked to dignity and unity in diversity. Constitutional provisions protect minority rights (Articles 29–30), while Fundamental Duties (Article 51A) encourage citizens to promote harmony. In S.R. Bommai v. Union of India (1994), the Court highlighted secularism and fraternity as part of the Constitution's basic structure, underscoring their role in national integrity.

In essence, both constitutions share these revolutionary values but apply them differently: France through universalist republicanism and India through pluralist, welfare-oriented constitutionalism. Liberty is broader in India due to judicial innovation, equality is more substantive with affirmative measures, and fraternity is rooted in respecting diversity while maintaining national unity.

c. Right Against Exploitation (Articles 23–24)

These articles outlaw some of the most egregious forms of human rights abuse, namely, human trafficking, bonded labour, and child labour in hazardous industries, by recognising the inherent dignity and freedom of every individual. Article 23 prohibits trafficking in human beings, begar (forced labour without payment), and other similar exploitative practices. It not only criminalises such actions but also imposes an obligation on the State to prevent them and protect victims. Article 24 complements this by explicitly prohibiting the employment of children under the age of 14 in factories, mines, and other hazardous work environments. These provisions serve as critical safeguards for the most vulnerable populations, especially the economically marginalised and socially excluded. They underline the constitutional commitment to upholding economic justice and basic human dignity, aligning closely with international human rights standards such as the ILO Conventions and the UN Convention on the Rights of the Child.

❐ Anti-exploitation

d. Right to Freedom of Religion (Articles 25–28)

These provisions are instrumental in upholding religious plu-

ralism and India's distinct model of secularism, which promotes equal respect for all religions rather than separating religion from the state. Citizens are guaranteed the freedom to profess, practice, and propagate their religion, subject to reasonable restrictions in the interests of public order, morality, and health. Article 25 affirms the individual's right to freedom of conscience and religious practice, while also allowing the State to regulate religious practices that may conflict with social reform. Article 26 recognises the collective rights of religious denominations to manage their own affairs in matters of religion. Article 27 ensures that no citizen is compelled to pay taxes for the promotion or maintenance of any particular religion, thereby maintaining financial neutrality. Article 28 restricts religious instruction in institutions wholly funded by the State, reinforcing the secular commitment of state-run educational systems. Together, these provisions reflect India's legal and moral commitment to safeguarding cultural and religious diversity within a framework of constitutional equality.

□ Religious rights

e. Cultural and Educational Rights (Articles 29–30)

These articles safeguard the cultural and educational rights of minorities, ensuring that communities with distinct linguistic, cultural, or religious identities are empowered to preserve and promote their heritage. Article 29 protects the interests of any section of citizens residing in the territory of India or any part thereof that has a distinct language, script, or culture. It ensures their right to conserve this identity and prohibits discrimination in admission to educational institutions maintained by the state or receiving aid from state funds. Article 30 further reinforces this by granting religious and linguistic minorities the right to establish and administer educational institutions of their choice, while protecting them against arbitrary state interference. These provisions help maintain India's pluralistic fabric by preventing the assimilation of minority communities into dominant cultural norms and by promoting diversity, inclusion, and equality of opportunity in education. Article 30 also empowers minority institutions to seek autonomy in administration, thereby preserving their pedagogical and cultural priorities while still complying with the broader regulatory framework.

□ Minority rights

f. Right to Constitutional Remedies (Article 32)

Described by Dr. B.R. Ambedkar as the "heart and soul" of the Constitution, Article 32 empowers citizens to approach the Supreme Court directly for the enforcement of Fundamental Rights, reinforcing the principle that these rights are not mere

statements of intent but actionable legal guarantees. This provision exemplifies the proactive role of the judiciary in upholding human rights and constitutional protections. It acts as both a remedy and a safeguard, ensuring that any violation or threat to fundamental freedoms can be promptly addressed by the highest court. The remedies available under Article 32 include writs such as habeas corpus (to release a person unlawfully detained), mandamus (to direct a public authority to perform its duty), prohibition (to prevent a lower court from exceeding its jurisdiction), quo warranto (to challenge the legality of a public office holder), and certiorari (to quash illegal orders of lower courts or tribunals). These writs provide a robust and accessible mechanism for justice, empowering citizens and reinforcing the supremacy of the Constitution.

☐ Judicial remedies

Table 3.1.1 Meaning and purpose of Writs

Writ	Meaning & Purpose	Indian Context (Articles 32 & 226)
Habeas Corpus ("produce the body")	Protects personal liberty; commands authority to bring a detained person before the court to justify detention.	Available under Articles 32 & 226; ensures a quick remedy against unlawful detention.
Mandamus ("we command")	Orders a public authority to perform a duty required by law.	Used to compel the performance of statutory or constitutional obligations by state authorities.
Prohibition	Prevents lower courts or tribunals from exceeding jurisdiction.	Issued by SC/HCs to stop proceedings without jurisdiction.
Certiorari ("to be informed")	Transfers the case from the lower authority to the higher court for review.	SC/HCs can quash orders of lower courts/tribunals if jurisdiction is exceeded or due process is ignored.
Quo Warranto ("by what authority")	Challenging the legality of a person holding a public office.	Used to prevent usurpation of public offices not held under valid law.

3.1.4 Directive Principles of State Policy (Articles 36-51)

Though non-justiciable, meaning they cannot be enforced by any court of law, DPSPs are fundamental to governance. They aim to establish a social order where justice, social, eco-

Fundamental Rights That Borrowed Globally, But Spoke Locally

The Indian Constitution's Fundamental Rights were inspired by sources like the U.S. Bill of Rights and the Irish Constitution, yet uniquely Indianised. For instance, the Right to Constitutional Remedies (Article 32), called the "heart and soul" of the Constitution by B.R. Ambedkar, has no parallel in many other democracies.

nomic, and political, informs all state actions. Inspired by the Irish Constitution and socialist ideals, DPSPs direct the State to work towards eradicating poverty, reducing inequalities, and enhancing the quality of life. **(Non-justiciable governance)**

Key examples of these Directive Principles include the following:

▶ **Art. 38**: Promotes the welfare of the people through social order based on justice.

▶ **Art. 39**: Mandates equal pay for equal work, adequate means of livelihood, and protection of workers.

▶ **Art. 39A**: Calls for free legal aid and access to justice.

▶ **Art. 45**: Seeks early childhood care and education for all children up to the age of six.

▶ **Art. 47**: Directs the State to raise the level of nutrition and improve public health.

Although not enforceable in court, DPSPs have been used by the judiciary to expand the scope of Fundamental Rights by interpreting them in ways that support broader goals of social and economic justice. The Supreme Court, in Minerva Mills v. Union of India (1980), upheld the harmony between Parts III (Fundamental Rights) and IV (Directive Principles), asserting that the Constitution is founded on a balance between individual liberties and collective responsibilities. The judgment emphasised that giving absolute primacy to one over the other would disrupt the Constitution's basic structure and its vision of an equitable society.

❏ Rights-DPSP harmony

3.1.5 Fundamental Duties (Article 51A)

Inserted by the 42nd Amendment, Article 51A outlines eleven Fundamental Duties expected of Indian citizens, including respecting the Constitution and its ideals, cherishing the nation's heritage, promoting harmony among all people, protecting the environment, and developing a scientific temper. These duties

are inspired by Gandhian principles and aim to instil a sense of moral and civic responsibility among citizens. While these duties are not legally enforceable, they serve as a moral compass and reinforce the idea that rights and duties must go hand in hand in a functioning democracy. They encourage active participation in nation-building and underscore the importance of ethical citizenship in a diverse and pluralistic society.

While non-justiciable, meaning they cannot be enforced by the courts, these duties serve as important moral obligations that help shape civic behaviour and foster a sense of responsibility among citizens. They complement Fundamental Rights by reminding individuals that the enjoyment of rights comes with responsibilities, thereby encouraging civic consciousness and ethical citizenship. The judiciary has occasionally relied on these duties to support legislation and shape public policy. For example, in Vellore Citizens Welfare Forum v. Union of India (1996), the Supreme Court emphasised environmental protection as a shared civic duty under Article 51A(g), framing it as a collective societal responsibility. In this way, Fundamental Duties play an essential role in shaping public values, guiding legislative priorities, and reinforcing the broader constitutional vision of participatory democracy.

3.1.6 Interpretive Synergy and Landmark Judgments

The Indian judiciary has creatively harmonised the Fundamental Rights, the Directive Principles of State Policy (DPSPs), and the Fundamental Duties to evolve a more inclusive and comprehensive interpretation of human rights. By viewing these components as interconnected rather than separate, courts have expanded the protection of individual liberties while promoting social and economic welfare. This synergy reflects a dynamic and progressive understanding of the Constitution as a living document, responsive to changing societal needs and rooted in the enduring values of justice, dignity, and equality.

- ▶ **Kesavananda Bharati v. State of Kerala (1973)**: This landmark case introduced the "Basic Structure Doctrine," a judicial principle asserting that while Parliament has wide powers to amend the Constitution under Article 368, it cannot alter or destroy its fundamental features. These essential elements include the supremacy of the Constitution, the rule of law, separation of powers, and Fundamental Rights. The ruling ensured that the core values of the Constitution, especially those protecting human dignity and democratic

governance, remain intact regardless of political changes or legislative majorities.

▶ **Maneka Gandhi v. Union of India (1978)**: This transformative judgment expanded the scope of Article 21, ruling that the right to life is not confined to mere physical existence but encompasses the right to live with dignity, liberty, and access to a fair and reasonable procedure. The Supreme Court held that any law affecting personal liberty must meet the standards of fairness, justice, and reasonableness, thereby interlinking Articles 14, 19, and 21. This case laid the foundation for the doctrine of substantive due process in Indian constitutional law and significantly broadened the interpretation of fundamental rights.

□ Due process expansion

▶ **I.R. Coelho v. State of Tamil Nadu (2007)**: In this significant judgment, the Supreme Court reaffirmed that laws placed under the Ninth Schedule of the Constitution - initially shielded from judicial scrutiny - are still subject to judicial review if they infringe upon the basic structure of the Constitution. The Court clarified that even constitutional amendments adding laws to the Ninth Schedule after April 24, 1973 (the date of the Kesavananda Bharati ruling), must pass the basic structure test. This decision fortified the doctrine that the Constitution's core values, including fundamental rights, cannot be undermined by legislative action, thereby safeguarding democratic principles and individual liberties.

□ Judicial review limits

▶ **Justice K.S. Puttaswamy v. Union of India (2017)**: This landmark case affirmed that the right to privacy is a fundamental right protected under Article 21 of the Constitution. The Supreme Court ruled unanimously that privacy is intrinsic to the right to life and personal liberty and forms the foundation for other freedoms such as bodily autonomy, data protection, and dignity. The judgment aligned Indian constitutional law with global human rights standards and laid the groundwork for future legal developments related to surveillance, digital rights, and informational privacy.

□ Privacy rights

These landmark decisions underscore how constitutional interpretation has evolved in response to shifting social, political, and technological contexts. They also highlight the Indian judiciary's vital role in defending fundamental freedoms, expanding the scope of rights, and ensuring that the Constitution remains a living and dynamic instrument aligned with the needs of a democratic society.

□ Judicial dynamism

3.1.7 Treaty Bodies and International Influence

India's constitutional framework has been influenced by its international obligations and active participation in global human rights systems. Treaty bodies, such as the UN Human Rights Committee (which oversees compliance with the International Covenant on Civil and Political Rights, ICCPR) and the Committee on Economic, Social and Cultural Rights (which monitors the International Covenant on Economic, Social and Cultural Rights, ICESCR), play a crucial role in assessing how states, including India, uphold their treaty commitments. These bodies receive periodic reports from states and issue recommendations that, while not legally binding, carry significant moral and diplomatic weight. Their observations often help shape national debates on human rights, influence legislative reforms, and guide judicial reasoning in cases involving international norms.

❐ Global compliance

While international treaties are not automatically enforceable in India (i.e., they are not self-executing and require enabling legislation to be directly applicable in domestic law), Indian courts have increasingly used them as interpretive tools to fill legislative gaps and uphold constitutional values. A notable example is Vishaka v. State of Rajasthan (1997), where the Supreme Court issued guidelines to prevent sexual harassment in the workplace, citing the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as a basis for framing binding norms in the absence of a specific domestic law. This approach reflects the judiciary's evolving strategy of aligning constitutional guarantees with international human rights standards, especially when domestic laws are silent or insufficient.

❐ Interpretive borrowing

❐ Human rights alignment

Such cross-references demonstrate the Indian judiciary's willingness to harmonise domestic law with international human rights norms. This not only affirms India's commitment to global legal standards but also reinforces the idea that human rights are universal, applicable to all people, and indivisible, meaning that civil, political, economic, social, and cultural rights are equally important and interdependent.

Summarised Overview

This unit has explored the constitutional framework of India, which serves as the foundational source of human rights protections. Starting with the Preamble, which encapsulates the ethical core of the Constitution, the unit delves into the Fundamental Rights that form the cornerstone of individual liberties and democratic life. These rights ensure equality, freedom, and protection from exploitation while promoting cultural diversity and religious pluralism.

Directive Principles of State Policy (DPSPs) and Fundamental Duties complement this framework by outlining the socio-economic goals and moral responsibilities of citizenship. The dynamic interpretation of these rights by the Indian judiciary, through landmark cases such as Kesavananda Bharati, Maneka Gandhi, and Puttaswamy, has ensured that constitutional protections remain responsive to emerging challenges such as privacy, dignity, and inclusion. The Constitution is further enriched by India's engagement with international human rights treaty bodies. Together, these elements reflect a sophisticated, evolving legal and ethical commitment to a just, equitable, and participatory society.

Self-Assessment

1. What is the significance of the Preamble in interpreting constitutional provisions?

2. Distinguish between justiciable Fundamental Rights and non-justiciable Directive Principles.

3. Explain how Article 21 has evolved through judicial interpretation.

4. Discuss any two landmark judgments that expanded the scope of constitutional rights.

5. What role do international treaties play in shaping constitutional rights in India?

Assignment Questions

1. Critically evaluate the relevance of Fundamental Duties in contemporary Indian society.

2. Choose one landmark case (e.g., Maneka Gandhi, Kesavananda Bharati, or Puttaswamy) and write a report analyzing its impact on constitutional rights.

3. Compare Fundamental Rights in India with those in another constitutional democracy (e.g., the USA or South Africa).

Reference

1. Austin, G. (1966). *The Indian Constitution: Cornerstone of a Nation.* Oxford University Press.

2. Basu, D.D. (2016). *Introduction to the Constitution of India* (22nd ed.). LexisNexis.

3. Bakshi, P. M. (2017). *The Constitution of India* (16th ed.). LexisNexis.

4. United Nations Human Rights. (n.d.). UN Treaty Bodies. https://www.ohchr.org/en/treaty-bodies

Suggested Reading

1. Baxi, U. (2002). *The Future of Human Rights*. Oxford University Press.

2. Sathe, S.P. (2002). *Judicial Activism in India: Transgressing Borders and Enforcing Limits*. Oxford University Press.

3. Bhargava, R. (Ed.). (2008). *Politics and Ethics of the Indian Constitution*. Oxford University Press.

4. Jain, M. P. (2018). *Indian constitutional law* (8th ed.). LexisNexis.

5. Khurshid, S., Luthra, S., Malik, L., & Bedi, S. (Eds.). (2020). *Judicial Review: Process, Powers, and Problems (Essays in Honour of Upendra Baxi).* Cambridge University Press.

6. Supreme Court of India Landmark Judgments: https://main.sci.gov.in

7. National Human Rights Commission Reports: https://nhrc.nic.in

8. India's UPR reports and treaty body submissions: https://www.ohchr.org/en/countries/india

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

UNIT 2

Agencies for the Protection of Human Rights in India

Learning Outcomes

By the end of this unit, learners will be able to:

▶ identify key statutory and non-statutory human rights agencies in India.

▶ explain the structure, functions, and limitations of the National and State Human Rights Commissions.

▶ evaluate the role of the judiciary in protecting human rights through landmark decisions and doctrines.

▶ assess the contributions and challenges of other human rights actors, including the police, media, and civil society.

▶ critically analyse the interplay between national institutions and international human rights norms.

Background

The Indian Constitution enshrines a robust framework for the protection of human rights, but translating these constitutional ideals into lived realities requires strong institutional support. Recognising this, the Indian state has established a multi-tiered architecture comprising commissions, courts, enforcement bodies, and civil society partners. These mechanisms function to protect, promote, and enforce rights across the country. At the centre of this ecosystem is the National Human Rights Commission (NHRC), established by the Protection of Human Rights Act, 1993. The NHRC has evolved from a redressal body into a policy influencer, advisor, and educator on rights matters. Alongside it, State Human Rights Commissions (SHRCs) work to localise rights protection and address region-specific violations.

However, human rights protection is not the sole responsibility of commissions. The judiciary, particularly through Public Interest Litigations (PILs), has played a transformative role in expanding the reach of constitutional rights. Meanwhile, the media, police,

and civil society organisations bring visibility, accountability, and grassroots engagement to human rights advocacy in India.

Discussion

3.2.1 Introduction

India's strategy for protecting human rights is rooted in its Constitution and reinforced by an extensive institutional framework designed to uphold justice, dignity, liberty, and equality for all citizens. This framework features statutory and non-statutory bodies, including the National Human Rights Commission (NHRC), State Human Rights Commissions (SHRCs), the judiciary, the police, the media, and active civil society organisations. Each plays a unique role in ensuring accountability, redressal, and education in human rights matters. India's engagement with international treaties, such as the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR), also informs its domestic policy and institutional arrangements. Created under the Protection of Human Rights Act, 1993 (PHRA), the NHRC has evolved as the fulcrum of national rights protection, initiating various reforms and promoting access to justice. This unit examines these agencies' mandates, interactions, and evolving challenges, emphasising NHRC's enhanced capacity in response to contemporary human rights needs.

❏ Institutional framework

3.2.2 The Protection of Human Rights Act, 1993

The Protection of Human Rights Act, 1993, enacted by the Parliament of India, represents a significant legislative milestone in India's commitment to institutionalise and safe-

guard human rights. It defines human rights broadly to include rights related to life, liberty, equality, and dignity, drawing authority from both the Indian Constitution and international covenants to which India is a signatory, such as the International Covenant on Civil and Political Rights (ICCPR). The Act led to the establishment of the National Human Rights Commission (NHRC) at the central level and laid the foundation for the creation of State Human Rights Commissions (SHRCs). Crucially, the design and functioning of these bodies adhere to the Paris Principles, which set international standards for the independence, composition, and functioning of national human rights institutions. The Act has since served as the backbone of India's rights-based administrative and institutional framework, providing a formal structure for inquiries, interventions, and awareness of human rights violations across the country.

Key Provisions of PHRA

▶ The commissions are empowered to investigate complaints of human rights violations in multiple ways - by acting suo motu (on their own accord), based on petitions from affected individuals or groups, or through referrals and directions from the judiciary. These inquiries enable the commissions to examine the conduct of public authorities, evaluate the facts of the case, summon documents and witnesses, and issue recommendations to prevent further violations or redress grievances.

▶ With prior approval from the concerned court, the commissions are empowered to participate in ongoing legal proceedings where significant human rights issues are at stake. This intervention allows the commission to present expert views, legal interpretations, or broader human rights implications without being a litigant in the case. Such participation helps inform judicial decisions with a rights-based perspective and ensures that justice is dispensed with due sensitivity to human dignity and constitutional values.

▶ The commissions are authorised to visit and inspect any prison, detention centre, or custodial institution under the control of the State to evaluate the conditions of detention and the treatment of inmates. These inspections help ensure that the rights of detainees are protected, that humane conditions are maintained, and that abuses such as overcrowding, poor hygiene, and custodial violence are addressed through recommendations issued to the relevant authorities.

❐ Legislative foundation

❐ Investigation powers

❐ Judicial participation

❐ Custodial oversight

▶ Policy and Reform recommendations

▶ The commissions are tasked with reviewing existing legal frameworks and administrative procedures to identify gaps or inconsistencies with human rights standards. Based on these assessments, they recommend policy reforms, draft legislation, or suggest amendments to enhance protection mechanisms. This function also involves advising governments on aligning domestic laws with international human rights obligations and best practices, thereby contributing to systemic change and improved governance.

▶ Human rights awareness

▶ Promote widespread awareness and understanding of human rights through diverse and inclusive means such as community outreach, school and university curricula, capacity-building workshops, public seminars, media campaigns, and training for law enforcement and public officials. These initiatives aim to foster a culture of respect for human dignity and empower citizens to recognise and effectively claim their rights.

▶ Non-binding nature

Despite its significance, the Act limits the commissions' authority by rendering their recommendations non-binding, meaning governments are not legally obligated to act on them. This significantly hampers their ability to enforce meaningful compliance, particularly when authorities are unwilling or slow to cooperate. As a result, even well-reasoned findings or urgent remedial suggestions may remain unimplemented, thereby weakening the overall impact of the commissions' efforts to ensure accountability and justice.

3.2.3 National Human Rights Commission (NHRC)

▶ NHRC structure

The NHRC, established on October 12, 1993, under the Protection of Human Rights Act, is the apex human rights institution in India. It represents a statutory affirmation of India's commitment to upholding international and constitutional human rights standards, particularly those outlined in the Universal Declaration of Human Rights (UDHR). Headquartered in New Delhi, the NHRC operates through multiple specialised divisions, including Law, Investigation, Policy Research, Training & Awareness, and Administration. These divisions coordinate to address grievances, conduct investigations, monitor treaty compliance, and promote a culture of human rights nationwide.

Composition and Structure

▶ Chairperson: A former Chief Justice or Judge of a High

Court, appointed by the Governor in consultation with the Chief Justice of the High Court.

▶ Tenure: Typically serves for five years or until the age of 70, whichever is earlier.

▶ Members: Four full-time members, including at least one woman, drawn from diverse fields such as the judiciary, administration, human rights advocacy, and academia.

▶ Ex officio members: Heads of key national commissions such as those for Minorities, Backwards Classes, Scheduled Castes, Scheduled Tribes, Women, Children and Persons with Disabilities.

▶ Supporting Experts: Includes Special Rapporteurs, Thematic Core Groups, Human Rights Monitors, and a Secretary-General who serves as the Chief Executive Officer of the NHRC.

▶ Divisions: Operates through specialised wings such as Law, Investigation, Training, Policy Research, and Administration, which function in coordination to support the NHRC's mandate.

Mandate and Functions

The NHRC derives its mandate primarily from Section 12 of the Protection of Human Rights Act, 1993, which outlines its wide-ranging functions. These include:

▶ Inquiry into Human Rights Violations: Investigate complaints or incidents of human rights violations by public servants, including those of negligence or inaction.

▶ Court Interventions: With the court's approval, participate in judicial proceedings involving significant human rights questions to offer expert opinions and perspectives.

▶ Review of Legal and Constitutional Safeguards: Examine existing laws and safeguards for human rights protection and recommend improvements where necessary.

▶ Promoting Human Rights Literacy: Undertake educational initiatives through seminars, publications, media campaigns, and training programs to cultivate human rights awareness among citizens and public officials.

▶ Collaboration with NGOs and Civil Society: Encourage and support the functioning of civil society and NGOs ac-

tive in the field of human rights through consultative processes and capacity-building efforts.

▶ Monitoring International Human Rights Commitments: Study the alignment of India's domestic policies with international human rights treaties and recommend steps for better compliance.

▶ Undertake Research and Studies: Conduct in-depth research, field investigations, and thematic studies to generate knowledge and guide evidence-based policymaking.

Recent Initiatives and Achievements

The NHRC has made significant strides in strengthening human rights enforcement in India by embracing technology, expanding its outreach, and addressing emergent rights challenges. Some key recent initiatives and achievements include:

☐ Digital Transformation

▶ Launched an online complaint registration system and a mobile-responsive web portal, integrated with Common Service Centres (CSCs) across the country to improve rural access. A dedicated dashboard now tracks case status and pendency in real-time.

☐ Grassroots Access and Justice

▶ Conducted camp sittings and open public hearings in rural and tribal areas, enhancing access to justice for marginalised populations. These events often culminated in immediate relief actions and administrative recommendations.

☐ Policy Contributions

▶ Played an advisory role in the formulation and implementation of major laws such as the Transgender Persons (Protection of Rights) Act, 2019; Mental Healthcare Act, 2017; and Protection of Children from Sexual Offences (POCSO) Act. Issued policy advisories during national emergencies like the COVID-19 pandemic to ensure vulnerable communities received humanitarian assistance.

☐ Thematic Prioritisation

▶ Created Core Groups focused on key human rights areas, including LGBTQIA+ rights, disability inclusion, business and human rights, bonded labour, and trafficking. Developed standard operating procedures (SOPs) and national action plans in collaboration with stakeholders.

☐ Public Engagement and Training

▶ Strengthened its Training and Awareness Division to include training of police officials, public servants, and educators. Regularly hosts webinars, awareness weeks, and human rights education programs at schools and universities.

▶ Monitors India's implementation of international treaty obligations by submitting periodic shadow reports and facilitating national consultations on global mechanisms like Universal Periodic Review (UPR).

These efforts demonstrate how the NHRC has evolved from merely addressing individual complaints to taking a more proactive, strategic role in shaping public policy, advocating legal reforms, and ensuring inclusive participation from all sectors of society in the promotion and protection of human rights.

Limitations

One of the most significant limitations of the NHRC is that its recommendations are not legally binding. While the Commission can investigate and issue comprehensive reports on human rights violations, the implementation of its recommendations lies within the discretion of the relevant government authorities. This often results in delayed or non-implementation of proposed reforms, especially in politically sensitive or high-profile cases. The lack of enforceability undermines the commission's effectiveness in ensuring accountability.

The NHRC is not empowered to conduct direct investigations into human rights violations committed by armed forces personnel. It can only seek reports from the central government regarding such cases. This restriction significantly hampers the commission's ability to independently assess and address abuses in areas affected by military operations, often leading to concerns about transparency and accountability.

The NHRC's presence is centralised mainly in New Delhi, limiting its accessibility to citizens in remote or underserved regions. Many regions lack field offices or mobile units to facilitate local-level engagement. Additionally, the Commission faces budgetary limitations and insufficient staffing, particularly in its investigation, legal, and outreach divisions, which undermines its ability to respond swiftly and thoroughly to rights violations across the country.

Despite these limitations, the NHRC remains a pivotal actor in India's human rights landscape. It has made critical contributions through issuing detailed advisories on pressing issues, advocating for and supporting transformative legislative reforms, and fostering active engagement with civil society, academic institutions, and marginalised communities to amplify rights awareness and promote inclusive governance.

> **NHRC - A Watchdog With Bark, But Can It Bite?**
>
> The National Human Rights Commission (NHRC), set up in 1993, is often critiqued for being a "toothless tiger." Though it cannot punish or enforce decisions, it plays a crucial role in bringing rights violations to national attention and has handled over 20 lakh cases since its inception.

3.2.4 State Human Rights Commissions (SHRCs)

The SHRCs, established under the Protection of Human Rights Act, 1993, are modelled after the NHRC in terms of structure and mandate. Still, their jurisdiction is limited to matters falling under the State List and Concurrent List of the Constitution. They function as decentralised arms of the national framework, addressing region-specific human rights concerns, and provide critical access points for local populations seeking redress. SHRCs aim to bring human rights protections closer to the grassroots by promoting awareness, handling complaints, and advising state governments on policy and legal reforms relevant to their contexts.

❏ Regional redress

Composition

▶ Chairperson: Former Chief Justice or Judge of a High Court.

▶ Two members from judicial, administrative, or human rights backgrounds.

Functions

▶ Investigate human rights violations at the state level.

▶ Recommend state-level reforms.

▶ Conduct state-specific awareness programs.

Coordination and Challenges

To ensure synergy across the human rights architecture, SHRCs are expected to maintain regular coordination with the NHRC through meetings, data sharing, joint recommendations, and training programs. However, in practice, coordination mechanisms are often informal and inconsistent, limiting the ability to address cross-jurisdictional or systemic rights violations effectively. SHRCs frequently encounter obstacles such as chronic understaffing, budgetary shortfalls, and prolonged delays in the appointment of chairpersons and members. These

issues compromise the speed and quality of investigations and undermine public trust. Enhancing institutional autonomy, allocating adequate resources, digitising complaint mechanisms, and formalising inter-agency collaboration are critical for strengthening SHRC operations.

3.2.5 Role of Judiciary and Public Interest Litigation (PIL)

India's judiciary, particularly the Supreme Court and High Courts, plays a foundational and transformative role in upholding and expanding human rights protections. Through tools such as judicial activism and Public Interest Litigation (PIL), the courts have interpreted constitutional provisions in progressive ways, making them directly enforceable and responsive to evolving societal needs. These interventions have significantly contributed to expanding the meaning and scope of rights such as life, liberty, and dignity, and have provided accessible remedies for marginalised and vulnerable populations.

Landmark Judgments

These judgments reflect how the Indian judiciary has expanded constitutional rights and fostered accountability:

▶ **Hussainara Khatoon v. Bihar (1979)** – A landmark judgment where the Supreme Court recognised that the right to free legal aid and a speedy trial are essential components of the right to life and personal liberty under Article 21 of the Constitution. The case exposed the plight of undertrial prisoners who had been languishing in jails for extended periods without trial, prompting reforms in the criminal justice system and reinforcing the principle that justice must be timely and accessible to all, regardless of socio-economic status.

▶ **Vishaka v. State of Rajasthan (1997)** – A landmark judgment in which the Supreme Court laid down comprehensive guidelines to prevent sexual harassment at the workplace. These guidelines, known as the 'Vishaka Guidelines,' were framed in the absence of domestic legislation and were based on international human rights standards such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Court emphasised that sexual harassment violates fundamental rights under Articles 14, 15, and 21 of the Constitution and directed all

Judicial activism

Legal aid rights

Workplace safety

employers to adopt measures to ensure a safe working environment for women until a formal law was enacted. This case was instrumental in the passage of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

► **Justice K.S. Puttaswamy v. Union of India (2017)** – In this landmark case, the Supreme Court unanimously held that the right to privacy is a fundamental right protected under Article 21 of the Indian Constitution. The judgment overturned earlier decisions that had denied such a right and recognised privacy as intrinsic to life and liberty. The ruling laid the constitutional foundation for subsequent debates on data protection, surveillance, and bodily autonomy. It also affirmed the values of dignity, autonomy, and personal choice as essential components of human rights in a democratic society.

❏ Right to privacy

► **Navtej Singh Johar v. Union of India (2018)** – In this landmark judgment, the Supreme Court of India decriminalised consensual same-sex relations between adults by reading down Section 377 of the Indian Penal Code. The Court declared that criminalising such relationships violated fundamental rights to equality (Article 14), non-discrimination (Article 15), freedom of expression (Article 19), and personal liberty and privacy (Article 21). The ruling emphasised the dignity and autonomy of LGBTQIA+ individuals. It affirmed that constitutional morality must prevail over social or religious morality, marking a historic step towards inclusion and human rights in India.

❏ LGBTQIA+ rights

Landmark PIL That Opened Jail Doors

The Hussainara Khatoon v. State of Bihar (1979) case began as a newspaper report about thousands of undertrial prisoners languishing in Bihar's jails without trial. The resulting PIL led to the release of over 40,000 undertrials across India and a revolution in legal aid. This case transformed Article 21 of the Constitution from a static clause into a living right to liberty.

Key Doctrines

The Indian judiciary has developed and employed several innovative legal doctrines that have redefined the understanding and enforcement of fundamental rights:

► **Demosprudence**: This concept views courts not merely as

legal adjudicators but as active participants in a democratic society. The judiciary, through its judgments, seeks to influence democratic discourse, empower marginalised voices, and promote participatory governance. Demosprudence reflects how legal decisions can shape public dialogue and institutional reform.

▶ **Expanded Interpretation of Article 21**: Over time, Article 21 - which guarantees the right to life and personal liberty - has been expansively interpreted to include rights such as the right to health, shelter, education, clean environment, privacy, and dignified living. This evolution reflects a holistic understanding of human dignity and socio-economic justice.

▶ **Continuing Mandamus**: This is a procedural innovation where the court keeps a case open and monitors compliance over time through interim directions. It has been used in environmental protection, prison reform, and bonded labour cases to ensure sustained implementation of judicial directives.

These doctrines highlight the judiciary's proactive role in bridging legal guarantees and lived realities, reinforcing its status as a key pillar of India's human rights framework.

While the judiciary has played a pioneering role in advancing human rights through landmark decisions and innovative doctrines, concerns persist about its accessibility to marginalised communities, prolonged delays in the delivery of justice, and instances of judicial overreach that blur the lines between law-making and adjudication. These challenges highlight the need for judicial reforms, increased transparency, and mechanisms to ensure timely and equitable access to justice for all.

3.2.6 Other Stakeholders in Human Rights Enforcement

a. Police

The police play a frontline role in protecting and enforcing human rights in India, serving as the first point of contact between the state and its citizens. However, their role is often marred by systemic issues such as custodial violence, arbitrary arrests, excessive use of force, and discriminatory practices, which compromise the rights and dignity of individuals, particularly those from marginalised communities.

<aside>
☐ Democratic jurisprudence

☐ Life and dignity

☐ Judicial monitoring

☐ Judicial limitations

☐ First-time responders
</aside>

Structural and Operational Challenges

Many police departments across Indian states face persistent structural and operational challenges. These include chronic understaffing, inadequate infrastructure, insufficient modern equipment, and inadequate training in human rights standards. Such deficits hinder the effective and humane functioning of law enforcement agencies. Additionally, there is a deeply entrenched culture of impunity within the police force, where instances of abuse and misconduct are rarely investigated impartially. Internal accountability mechanisms are often weak or ineffective, leading to a lack of public trust and repeated violations of individuals' rights, particularly those of marginalised communities.

Judicial Interventions and Reform Efforts

Recognising the urgent need for reform, the Supreme Court of India, in *Prakash Singh v. Union of India (2006)*, issued comprehensive guidelines to overhaul the police system. These included the establishment of State Security Commissions to ensure political neutrality, the implementation of fixed tenures for senior officers to prevent arbitrary transfers, and the creation of Police Complaints Authorities at both state and district levels to handle public grievances. Complementing these judicial measures, the National Human Rights Commission (NHRC), in collaboration with various state governments, has conducted regular training programs to sensitise police personnel on human rights, gender justice, juvenile protection, and custodial ethics. Additionally, Human Rights Cells have been established within police departments in several states to monitor internal complaints and ensure compliance with rights-based protocols.

Way Forward

Moving forward, reforming and empowering the police force is essential for fostering a just and rights-respecting society. There is a pressing need to promote community policing models that build trust and encourage dialogue between the police and local communities. Integrating human rights education into police training curricula at all levels and institutionalising regular sensitisation programs must become a priority. Furthermore, independent oversight bodies must be strengthened to ensure the timely investigation and prosecution of cases involving police misconduct. Only through comprehensive, sustained reforms can the police become a credible institution for protecting and promoting human rights in India.

Prakash Singh - The Cop Who Fought to Reform the Cops

Prakash Singh, a former DGP of Uttar Pradesh, is the petitioner behind the landmark Prakash Singh v. Union of India (2006) case that sought police reform.

Frustrated by political interference and lack of accountability in policing, Singh filed a PIL that led to:

▶ Fixed tenure for police officers

▶ Creation of Police Complaints Authorities

▶ Formation of State Security Commissions

The case made him a hero for human rights defenders and earned him the label: "The man who sued the system he once led."

b. Media

The media plays a pivotal role in protecting and promoting human rights by acting as a public watchdog, agenda-setter, and conduit for awareness. Through investigative journalism, documentaries, opinion pieces, and coverage of critical events, media outlets highlight instances of injustice, amplify marginalised voices, and pressure authorities to take corrective action.

❏ Public watchdog

Key Contributions

▶ Investigative reports on issues such as custodial deaths, communal violence, corruption, environmental degradation, and systemic discrimination often serve as catalysts for public outrage and official inquiries. Notable examples include sting operations that revealed police misconduct or campaigns that brought gender-based violence to national attention.

❏ Investigative impact

▶ By broadcasting debates, expert analyses, and human rights documentaries, the media fosters a culture of civic engagement and rights awareness. News channels and digital platforms increasingly feature content on topics like LGBTQIA+ rights, child protection, and gender justice, contributing to broader societal conversations.

❏ Civic awareness

▶ Media amplifies the work of NGOs and grassroots movements by covering their initiatives, challenges, and advocacy efforts. This visibility enhances credibility and mobilises support for human rights campaigns.

❏ Advocacy amplification

Challenges and Ethical Concerns

☐ Sensationalism and Misinformation

Competitive pressures often lead to exaggerated or biased reporting, which can distort facts and fuel social tensions. Misinformation, particularly on social media, can incite violence or undermine legitimate rights movements.

☐ Threats to Press Freedom

Journalists investigating human rights issues, especially in conflict zones or politically sensitive cases, face harassment, censorship, and violence. The shrinking space for independent journalism is a growing concern, with implications for transparency and democratic accountability.

☐ Editorial bias due to commercial and political influence

Media ownership patterns and advertising pressures sometimes result in selective reporting or silence on contentious issues. This compromises the media's role as an impartial watchdog.

Way Forward

To strengthen the media's role in promoting human rights, several key steps must be taken. First, promoting media literacy among the public is essential. By encouraging critical thinking through educational initiatives, consumers can better navigate misinformation, assess media content objectively, and engage more meaningfully with rights-related issues. Second, media houses must take proactive steps to reinforce ethical standards by upholding rigorous codes of conduct, strengthening fact-checking protocols, and ensuring editorial independence. These measures are vital to maintaining credibility and public trust. Third, institutional safeguards must be established and reinforced, including robust legal protections for journalists, effective access-to-information laws, and independent regulatory bodies that uphold press freedom and prevent undue interference. Together, these reforms are crucial to building a robust, independent, and ethical media ecosystem that upholds democratic values and contributes meaningfully to protecting and promoting human rights in India.

☐ Ethical journalism

Summarised Overview

This unit offers an in-depth exploration of the key agencies and actors responsible for protecting human rights in India. The central statutory bodies include the National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRCs), which investigate complaints, advise on policy, and educate citizens about their rights. While empowered by the Protection of Human Rights Act, 1993, these commissions face challenges, including the lack of binding recommendations, jurisdictional constraints, and resource shortages.

The judiciary, particularly through innovative doctrines like continuing mandamus and demosprudence, has expanded constitutional rights and ensured justice in landmark cases. Public Interest Litigations (PILs) have become vital tools for rights enforcement, especially for vulnerable populations.

Additional stakeholders such as the police, media, and civil society organisations play vital roles. While the police require reform and sensitisation, the media serves as both a watchdog and an educator. NGOs and grassroots movements contribute by monitoring violations, providing legal aid, and mobilising communities. Together, these institutions form a dynamic and evolving human rights ecosystem. While significant progress has been made, continued efforts are needed to strengthen autonomy, accountability, and inter-agency collaboration.

Self-Assessment

1. What are the key functions of the NHRC under the Protection of Human Rights Act, 1993?

2. How do SHRCs contribute to the decentralisation of human rights protection?

3. Explain the concept and significance of Public Interest Litigation (PIL).

4. Describe the role of media in promoting and protecting human rights.

5. What are the structural challenges faced by the police in upholding human rights?

Assignments

1. Critically evaluate the limitations of the NHRC and suggest reforms for making it more effective.

2. Choose a landmark PIL (e.g., Vishaka v. State of Rajasthan or Navtej Singh Johar v. Union of India) and explain how it impacted institutional mechanisms.

Reference

1. National Human Rights Commission. (2023). *Overview of the National Human Rights Commission.* https://nhrc.nic.in

2. Amnesty International. (n.d.). *Human Rights in India: Annual Overview*.

3. Human Rights Law in India. (n.d.). Retrieved from the uploaded document.

4. Judicial Review. (n.d.). Retrieved from the uploaded document.

5. Law Commission of India Reports

6. Supreme Court cases (e.g., Vishaka v. State of Rajasthan)

7. PUCL (People's Union for Civil Liberties) publications

Suggested Reading

1. Sathe, S. P. (2003). *Judicial activism in India: Transgressing borders and enforcing limits* (2nd ed.). Oxford University Press.

2. Mohanty, M. (Ed.). (1998). *People's Rights: Social Movements and the State in the Third World*. Sage Publications.

3. Sharma, B.K. (2016). *Introduction to the Constitution of India*. PHI Learning.

4. Supreme Court Case Archive: https://main.sci.gov.in

5. NHRC Complaints Dashboard: https://nhrc.nic.in

6. UN Human Rights Reports – India: https://www.ohchr.org

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

Rights of Marginalised Classes

Learning Outcomes

By the end of this unit, learners will be able to:

▶ identify the key constitutional and legal provisions for the protection of marginalised groups in India.

▶ evaluate the socio-political challenges faced by women, children, Dalits, minorities, and LGBTQIA+ individuals.

▶ assess the effectiveness of laws, policies, and institutional mechanisms in advancing human rights for vulnerable populations.

▶ discuss landmark judicial interventions related to the rights of marginalised communities.

▶ reflect on the need for intersectional and inclusive approaches to human rights in India.

Background

India's complex social structure has historically excluded and oppressed several communities, including women, Dalits, religious minorities, children, and members of the LGBTQIA+ spectrum. These groups have often lacked access to justice, equality, and dignity - the foundational principles of human rights. In response, the Constitution of India has laid out a comprehensive framework of rights, protections, and affirmative duties. From gender-sensitive laws to protective measures for Dalits and children, and from linguistic freedoms to transgender recognition, the legal landscape continues to evolve. Despite these progressive developments, marginalised communities still face systemic barriers - including discrimination, violence, economic exclusion, and lack of representation. This unit explores the legal frameworks, policy measures, institutional responses, and grassroots struggles aimed at securing a more just and inclusive India.

Intersectionality, Gender Justice, Caste-based Discrimination, Minority Rights, Transgender Rights, Child Protection

Discussion

3.3.1 Introduction

India's societal structure has historically been shaped by deeply entrenched systems of exclusion, marginalisation, and inequality affecting specific groups, including women, children, Dalits, minorities, and LGBTQIA+ individuals. These communities have often been subjected to structural discrimination, denial of rights, and socio-economic disadvantages, impeding their access to justice, development opportunities, and full citizenship. To address these systemic inequities, the Constitution of India, along with various progressive legislations and policies, provides a framework for legal protection, affirmative action, and institutional redress. This unit explores the multifaceted human rights challenges encountered by these marginalised groups. It analyses the legal, policy, and institutional responses that aim to secure their dignity, equality, and meaningful participation in all spheres of life.

❏ Structural exclusion

3.3.2 Women's Rights and Gender Justice

From a human rights perspective, gender equality is both a legal requirement and a cornerstone of ethical governance. Achieving gender justice is vital for the full realisation of human dignity and the enjoyment of rights and freedoms by all individuals. Article 1 of the Universal Declaration of Human Rights states unequivocally that "All human beings are born free and equal in dignity and in rights." This principle, echoed in Sustainable Development Goal 5, highlights the need to dismantle patriarchal structures, address systemic inequalities, and create enabling environments that empower women and girls to participate fully and equally in all aspects of life.

❏ Gender equality framework

3.3.2.1 Constitutional and Legal Framework

India's Constitution upholds the principle of gender equality and provides a strong legal foundation to ensure women's

rights. Various provisions of the Constitution empower the state to promote gender justice by eliminating discriminatory practices and implementing affirmative action to uplift women. These include:

- **Article 14:** Ensures equality before the law and equal protection of the laws.

- **Article 15(1):** Prohibits discrimination on the grounds of sex, among other factors.

- **Article 15(3):** Permits the state to make special provisions for women and children as a form of affirmative action.

- **Article 16:** Provides for equality of opportunity in public employment.

- **Article 39(a) and (d):** Directs the state to ensure adequate means of livelihood for men and women equally and equal pay for equal work.

- **Article 42:** Mandates the state to provide just and humane conditions of work and maternity relief.

These constitutional guarantees are operationalised through a robust legal architecture comprising a range of statutes designed to safeguard women's rights, combat gender-based violence, ensure workplace safety, promote reproductive health, and facilitate women's social and economic empowerment.

3.3.2.2 Key Legislation

India has enacted several significant laws to protect women's rights and address the structural roots of gender-based injustice. These legislations cover various domains, including domestic violence, workplace harassment, maternity rights, and protection against trafficking:

- **Protection of Women from Domestic Violence Act, 2005:** Recognises a broad spectrum of abuse - physical, emotional, verbal, sexual, and economic - and establishes a civil remedy framework for women facing violence within domestic settings. The Act empowers Magistrates to issue protection orders, residence orders, and monetary relief, while also mandating the appointment of Protection Officers and the involvement of service providers to facilitate shelter, legal aid, and counselling.

- **POSH Act, 2013:** Enacted to ensure a safe working envi-

□ Constitutional provisions

□ Domestic violence law

ronment for women, this Act institutionalises the Supreme Court's Vishaka Guidelines by making it mandatory for all workplaces with 10 or more employees to establish Internal Complaints Committees (ICCs). The Act defines sexual harassment comprehensively, lays out procedural safeguards, and obligates employers to raise awareness and ensure compliance through regular training and reporting.

▶ **Maternity Benefit (Amendment) Act, 2017:** Extends the duration of paid maternity leave from 12 to 26 weeks for women working in establishments with 10 or more employees. It also mandates the provision of crèche facilities in workplaces with 50 or more employees and allows mothers to visit the crèche up to four times a day. The Act aims to promote maternal health, support work-life balance, and increase women's workforce participation.

3.3.2.3 Policy Measures and Schemes

The Government of India has launched several targeted schemes and policy initiatives to uplift and empower women across various socio-economic contexts. These schemes aim not only to address specific challenges such as female foeticide, trafficking, and workplace insecurity but also to foster long-term empowerment through education, health, and financial inclusion:

▶ **Beti Bachao Beti Padhao (BBBP):** A flagship initiative launched in 2015, this scheme addresses the declining child sex ratio and promotes the education and empowerment of the girl child. It combines advocacy with multi-sectoral action at the district level, involving health, education, and local governance.

▶ **Ujjwala Scheme:** Officially known as the Ujjawala Scheme (under the Ministry of Women and Child Development), it focuses on the prevention of trafficking and provides rescue, rehabilitation, reintegration, and repatriation services for trafficked women and children. It supports shelter, legal aid, and vocational training.

▶ **Mahila E-Haat:** A digital platform for women entrepreneurs to showcase and sell their products and services, promoting economic empowerment and market accessibility.

▶ **One-Stop Centre Scheme (Sakhi Centres):** Offers integrated support and assistance to women affected by vio-

lence, including emergency response, counselling, legal aid, and temporary shelter under one roof.

▶ **Pradhan Mantri Matru Vandana Yojana (PMMVY):** Provides conditional cash transfers to pregnant and lactating women to improve health and nutrition and reduce maternal mortality.

These schemes complement legislative frameworks and institutional mechanisms, contributing significantly to India's broader goals of gender justice and inclusive development.

❏ Empowerment schemes

3.3.2.4 Challenges and Gaps

Despite the existence of progressive legal frameworks and targeted policy initiatives, significant challenges persist in realizing gender justice in India. Gender-based violence remains pervasive, with many cases going unreported due to fear of stigma, lack of support systems, and mistrust in law enforcement. Deep-rooted patriarchal norms continue to influence societal attitudes and institutional responses, impeding women's access to justice and equal opportunities. Additionally, the poor implementation of laws, the shortage of gender-sensitive personnel, and inadequate infrastructure further exacerbate these issues. As the NHRC rightly emphasises, an intersectional approach to gender justice is essential - one that considers the compounding effects of caste, class, religion, disability, and other identities. Upholding women's human rights entails not only ensuring legal safeguards but also enabling bodily autonomy, political voice, economic participation, and representation across all sectors of society.

❏ Persistent inequality

The "Right to Pee" Campaign

In Mumbai and Pune, a group of women led by activist Mumtaz Shaikh launched the "Right to Pee" campaign, demanding safe and free public toilets for women. Until then, most public urinals were designed only for men. Their activism led to municipal reforms, and Mumtaz was featured in the BBC's 100 Women of the Year.

3.3.3 Rights of the Child

Children's rights are a cornerstone of the global human rights framework, emphasizing that every child possesses intrinsic dignity and is entitled to the full range of civil, political, economic, social, and cultural rights. The Convention on

the Rights of the Child (CRC), adopted by the UN in 1989, is the most widely ratified human rights treaty and serves as the normative foundation for child protection worldwide. It upholds the principles of non-discrimination, the best interests of the child, the right to life, survival and development, and respect for the views of the child. These principles highlight the need to recognize children not merely as passive recipients of care but as active rights-holders deserving of autonomy, participation, and holistic protection from all forms of harm, neglect, and exploitation.

3.3.3.1 Legal Framework

India has adopted a progressive legal approach to safeguard and realise the rights of children, consistent with its obligations under international conventions such as the United Nations Convention on the Rights of the Child (UNCRC), which India ratified in 1992. These legal provisions seek to guarantee children's rights to education, protection, development, and participation.

▶ **Right to Education (RTE) Act, 2009:** Mandates free and compulsory education for all children between the ages of 6 to 14 years, as a fundamental right under Article 21A of the Constitution. The Act specifies norms and standards for schools, prohibits physical punishment and mental harassment, bans screening procedures for admission, and ensures that no child is held back, expelled, or required to pass a board examination until completion of elementary education. It also emphasises inclusion by reserving 25% of seats in private unaided schools for children from economically weaker sections and disadvantaged groups.

▶ **Protection of Children from Sexual Offences (POCSO) Act (2012):** The POCSO Act, enacted in 2012, is a landmark gender-neutral legislation in India designed to safeguard children under 18 from sexual abuse, assault, harassment, and exploitation, including pornography. Recognising the vulnerability of children, the Act mandates child-friendly procedures for recording statements, medical examinations, and court proceedings to prevent re-traumatisation. It provides for the establishment of special courts to ensure speedy trials. It also enforces mandatory reporting of offences, with punishment for failure to report, and shifts the burden of proof to the accused in certain cases due to the child's age and vulnerability. The Act aligns with child

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□ Foundation of child rights

□ Progressive laws

□ Education access

rights enshrined in the Indian Constitution (Articles 15(3) and 39(e) & (f)) and international obligations under the UN Convention on the Rights of the Child (UNCRC), reaffirming the child's right to protection, dignity, and a safe environment. However, challenges such as underreporting, low conviction rates, and inadequate implementation persist, necessitating stronger child protection systems, enhanced stakeholder training, improved victim support services, and greater public awareness to realise the full potential of the Act.

▶ **Juvenile Justice (Care and Protection of Children) Act, 2015:** This Act provides a comprehensive framework for the care, protection, treatment, and rehabilitation of children. It classifies children as either in conflict with the law or in need of care and protection. Emphasising a child-friendly approach, it prioritises rehabilitation and reintegration rather than punitive measures. The Act introduces provisions for the establishment of Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWCs), and lays down procedures for adoption, foster care, and institutional care, aligning with the principles of the best interests of the child and restorative justice.

3.3.3.2 Institutional Mechanisms

India has developed a multi-tiered institutional system to implement and monitor child rights protections. These mechanisms work at national, state, and district levels to ensure the welfare, rehabilitation, and development of children:

▶ **Child Welfare Committees (CWCs):** Function as quasi-judicial bodies empowered to make decisions in the best interests of children in need of care and protection. CWCs conduct inquiries, recommend rehabilitation measures, and supervise child care institutions.

▶ **Juvenile Justice Boards (JJBs):** Handle cases of children in conflict with the law. They ensure child-friendly procedures and promote rehabilitation and social reintegration over punitive action.

▶ **National Commission for Protection of Child Rights (NCPCR):** A statutory body under the Commission for Protection of Child Rights Act, 2005, tasked with monitoring the implementation of laws and policies for child welfare, advising the government, and handling complaints of rights violations.

Sidebar notes:
- ❒ Child protection law
- ❒ Child rescue and care
- ❒ Juvenile justice
- ❒ National oversight

▶ **UNICEF-India Collaboration:** Works with government bodies and civil society organisations to strengthen child protection systems, address malnutrition, improve access to education, and create safe environments for children.

These institutional frameworks play a crucial role in translating legal mandates into practical support, advocacy, and enforcement of children's rights.

3.3.3.3 Schemes and Programmes

To address the multifaceted needs of children, the Government of India has instituted a range of programmes to improve nutrition, health, and educational outcomes, particularly for the most vulnerable populations. These programmes include:

▶ **Integrated Child Development Services (ICDS):** Launched in 1975, ICDS is one of the world's largest programmes for early childhood care and development. It provides supplementary nutrition, preschool education, immunization, health check-ups, and referral services through Anganwadi Centres to children under six years of age and pregnant/lactating mothers.

▶ **Mid-Day Meal Scheme (MDMS):** Introduced in 1995, this programme provides free cooked meals to children in government and government-aided schools, aiming to enhance nutritional levels, increase school enrolment and retention, and reduce dropout rates. It also addresses classroom hunger and promotes social equity by bringing children from different social backgrounds together.

▶ **National Nutrition Mission (POSHAN Abhiyaan):** A convergence mission launched in 2018 to reduce stunting, undernutrition, anaemia, and low birth weight among children. It leverages technology and community participation to improve service delivery and health outcomes.

▶ **Samagra Shiksha Abhiyan:** An overarching programme for the school education sector extending from pre-school to Class 12, focusing on improving the quality of education, infrastructure, digital learning, and equity across states.

These programmes complement legal and institutional mechanisms, contributing to the holistic development and protection of children across the country.

3.3.3.4 Contemporary Challenges

Despite robust legal and institutional frameworks, the realisation of children's rights in India faces several entrenched challenges. Child labour continues in many sectors, often hidden within informal economies and family-run enterprises. Child marriage, particularly among girls, remains prevalent in rural and impoverished regions, curtailing education and health outcomes. Trafficking of children for labour, sexual exploitation, and domestic servitude persists as a serious concern. Additionally, children are subjected to corporal punishment in schools and abuse within homes and institutional care settings, undermining their safety and psychological well-being. Marginalised groups, such as Dalit and tribal children, children with disabilities, and those in conflict zones, are especially vulnerable. Ensuring children's human rights requires not only strict enforcement of laws but also a cultural shift that prioritises their voice, agency, and best interests across all domains of governance and society.

❒ Ongoing vulnerabilities

Children's Courtroom - With Teddy Bears and No Robes

In Puducherry and Goa, child-friendly courts are set up with painted walls, soft toys, and no black robes or gavels - to ensure children aren't traumatised during legal proceedings. The idea came after the Juvenile Justice Act, 2015, and aligns with global best practices. The courtroom looks more like a playroom - but delivers serious justice.

3.3.4 Rights of Dalits

The Dalit struggle constitutes one of the most pressing human rights issues in India, rooted in centuries of systemic caste-based oppression, violence, and exclusion. The caste system institutionalised hierarchies that denied Dalits access to basic rights such as education, land, healthcare, and dignity. Such structural discrimination contravenes the foundational principles of human dignity, equality, and non-discrimination embedded in the Universal Declaration of Human Rights and enshrined in the Constitution of India. Despite legal prohibitions against untouchability and caste-based atrocities, Dalits continue to face social ostracism, economic marginalisation, and limited access to justice, highlighting the urgent need for stronger implementation of human rights norms and inclusive development policies.

❒ Caste-based exclusion

3.3.4.1 Constitutional Provisions

The Indian Constitution provides explicit safeguards for Dalits (Scheduled Castes) to address historical injustices and to promote equality, dignity, and social inclusion:

▶ **Article 15(1):** Prohibits discrimination on grounds of religion, race, caste, sex, or place of birth.

▶ **Article 15(4):** Enables the state to make special provisions for the advancement of socially and educationally backward classes, including the Scheduled Castes.

▶ **Article 17:** Abolishes 'untouchability' and forbids its practice in any form; it is backed by the Protection of Civil Rights Act, 1955.

▶ **Article 46:** Directs the State to promote the educational and economic interests of the Scheduled Castes and protect them from social injustice and exploitation.

▶ **Article 338:** Establishes the National Commission for Scheduled Castes (NCSC) to monitor safeguards and advise the government on SC-related issues.

These provisions form the constitutional backbone of India's commitment to social justice, enabling targeted legal, educational, and economic interventions to empower Dalits.

3.3.4.2 Key Legislations

To give concrete effect to constitutional protections for Dalits, a range of legislative measures have been enacted to combat caste-based discrimination, ensure equal access to justice, and promote social inclusion:

▶ **SC/ST (Prevention of Atrocities) Act, 1989:** This landmark legislation was enacted to prevent atrocities and hate crimes against Scheduled Castes and Scheduled Tribes and to ensure their dignity, safety, and access to justice. The Act defines various forms of atrocities - ranging from physical violence to social and economic exclusion - and provides for stringent penalties. It mandates the establishment of Exclusive Special Courts and the appointment of Exclusive Public Prosecutors to ensure time-bound trials. Amendments to the Act in 2015 and 2018 further strengthened its provisions by expanding the list of offences and eliminating procedural hurdles such as the requirement of prior sanction for the registration of FIRs against public servants. De-

spite implementation challenges, the Act serves as a critical tool for upholding Dalit and tribal rights and advancing substantive equality.

3.3.4.3 Institutional Support

Institutional mechanisms are essential for translating constitutional and legal provisions into tangible protections and services for Dalit communities. These institutions function as watchdogs, advisors, and facilitators of justice:

▶ **National Commission for Scheduled Castes (NCSC):** A constitutional body established under Article 338, the NCSC is mandated to investigate and monitor matters related to safeguards for Scheduled Castes. It submits reports to the President, recommends policy measures, and addresses grievances.

▶ **National Commission for Scheduled Tribes (NCST):** Though primarily focused on Scheduled Tribes, the NCST plays a complementary role in addressing issues of intersectionality where tribal and Dalit identities overlap.

▶ **Special Courts and Public Prosecutors:** Set up under the SC/ST (Prevention of Atrocities) Act to ensure speedy trials and reduce the scope for procedural delays.

▶ **State SC/ST Welfare Departments:** Implement welfare schemes, provide legal aid, and ensure coordination with law enforcement agencies to monitor atrocities.

These institutional bodies are critical for ensuring accountability, enabling access to justice, and reinforcing the rights and dignity of Dalit citizens.

3.3.4.4 Human Rights Perspective

❑ Global rights perspective

Dalit rights are an inalienable part of the universal human rights framework, and any denial of access to education, justice, employment, or dignity amounts to a serious violation of international human rights obligations. The NHRC and international human rights bodies like the UN Special Rapporteurs have repeatedly underscored that caste-based discrimination is a form of systemic inequality that perpetuates exclusion and violence. Ensuring Dalit rights entails not only the implementation of protective laws but also proactive measures such as human rights education, access to legal aid, affirmative action, and inclusive policymaking. Legal literacy campaigns, community mobilisation, and grassroots advocacy are crucial in-

struments for empowering Dalit communities and dismantling entrenched caste hierarchies.

From Jail to Justice – Dr. B.R. Ambedkar's Battle Against Caste

Before chairing the drafting committee of the Constitution, Dr. B.R. Ambedkar was denied access to school water as a child, forced to sit outside the classroom, and even jailed for asserting Dalit rights. Despite these humiliations, he later wrote Article 17, abolishing untouchability - a legal first in the world.

3.3.5 Rights of Minorities

Minority rights are a fundamental aspect of human rights, anchored in the principles of equality, non-discrimination, and the preservation of cultural identity. These rights ensure that individuals belonging to religious, linguistic, ethnic, or cultural minorities can freely practice their traditions, access opportunities, and participate fully in public life without fear of persecution or exclusion. International human rights instruments, such as the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), affirm the right of minorities to enjoy their own culture, profess and practise their own religion, and use their own language. In India, these protections are embedded within the constitutional framework, recognising the nation's pluralistic character and commitment to inclusive democracy.

❏ Cultural rights protection

3.3.5.1 Constitutional Provisions

The Constitution of India provides comprehensive safeguards to protect the rights of religious and linguistic minorities, thereby upholding the nation's commitment to cultural diversity, secularism, and inclusive citizenship. These protections are primarily enshrined in Articles 25-30 and Articles 350A and 350B.

❏ Minority constitutional rights

- ▶ **Articles 25 to 30** collectively guarantee religious freedom, cultural autonomy, and the right of minorities to establish and manage their own educational institutions:

- ▶ **Article 25** affirms the fundamental right of all individuals to freedom of conscience and the right to freely profess, practice, and propagate religion, subject to public order, morality, and health. This provision ensures that religious minorities can observe their faith without interference,

while maintaining harmony with the broader social order.

▶ **Article 26** provides every religious denomination the right to manage its own religious affairs. This includes the rights to establish and maintain institutions for religious and charitable purposes, to manage property, and to administer matters of religion independently.

▶ **Article 27** prohibits the State from compelling any person to pay taxes for the promotion or maintenance of any particular religion or religious institution. This provision reinforces the secular character of the Indian State by preventing the use of public funds to favour any religion.

▶ **Article 28** restricts religious instruction in educational institutions that are wholly funded by the State, while permitting such instruction in institutions established under specific trusts or endowments where religious teaching is mandated.

▶ **Article 29** protects the cultural and educational rights of any section of citizens with a distinct language, script, or culture. It grants them the right to conserve their heritage and prevents discrimination in admission to State-run or State-aided educational institutions.

❏ Atrocity prevention law

▶ **Article 30** explicitly grants religious and linguistic minorities the right to establish and administer educational institutions of their choice. Furthermore, the article provides that the State shall not discriminate in granting aid to such institutions solely based on their minority status. This provision ensures autonomy and institutional freedom while enabling access to public resources.

In addition to these, Articles 350A and 350B provide specific safeguards for linguistic minorities:

▶ **Article 350A** mandates every State and local authority to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups. This provision recognises the importance of language in a child's cognitive development and cultural identity, and ensures that language is not a barrier to accessing quality education.

▶ **Article 350B** provides for the appointment of a Special Officer for Linguistic Minorities by the President of India. The Special Officer is tasked with investigating all matters

related to the constitutional safeguards for linguistic minorities and reporting periodically to the President. These reports are tabled before Parliament and shared with the concerned State Governments, thereby providing a mechanism for ongoing oversight and corrective action.

Together, these constitutional provisions form the bedrock of minority rights in India, promoting equality, protecting cultural identities, and fostering an environment of mutual respect in a pluralistic society.

3.3.5.2 Institutional Support

National Commission for Minorities (NCM): A statutory body established under the National Commission for Minorities Act, 1992, the NCM is mandated to protect the rights and interests of religious minorities in India, including Muslims, Christians, Sikhs, Buddhists, Parsis, and Jains. It monitors the implementation of constitutional safeguards, investigates complaints of deprivation of rights, and recommends measures for welfare and empowerment. The Commission also advises the central government on policy matters affecting minority communities and promotes inter-community harmony through awareness and dialogue.

❐ Minority rights oversight

Ministry of Minority Affairs: Established in 2006, this nodal ministry is responsible for the formulation and implementation of policies and programmes for the socio-economic development and empowerment of religious minority communities, including Muslims, Christians, Sikhs, Buddhists, Parsis, and Jains. It implements a wide range of schemes such as the Pre-Matric and Post-Matric Scholarships, Merit-cum-Means Scholarship for professional and technical courses, Nai Roshni (leadership development for minority women), and Seekho aur Kamao (skill development programme). The ministry also supports minority institutions, infrastructure development in minority-concentrated areas, and promotes education, livelihood, and inclusion through focused interventions.

❐ Welfare schemes for minorities

3.3.5.3 Challenges

Minorities in India continue to face multifaceted challenges that hinder their full enjoyment of rights and freedoms. Hate crimes, communal violence, and targeted discrimination often go underreported or unaddressed, exacerbating a sense of insecurity. Socio-economic exclusion remains a serious concern, with disparities in education, employment, housing, and

healthcare limiting opportunities for upward mobility. Stereo-typing and cultural stigmatisation further marginalise minority communities, curbing their expression, representation, and participation. Suppression of linguistic, religious, or cultural practices, whether through societal pressure or state action, threatens the preservation of minority identities. Addressing these challenges requires not merely tolerance but a robust framework of active protection, legal redress, affirmative policies, and institutional accountability to foster inclusion and ensure that minority rights are effectively realised.

3.3.5.4 Policy Imperatives

Respecting minority rights is not only a constitutional obligation but a critical pillar of a vibrant and inclusive democracy. A robust human rights framework calls for proactive measures that go beyond mere tolerance - embracing policies that promote representation, participation, and empowerment of minority communities. This includes institutional accountability for hate crimes, anti-discrimination legislation, equitable resource allocation, and protection of cultural and linguistic rights. Ensuring equal opportunities and fostering inclusive governance ultimately strengthens national unity and builds a resilient, just society where diversity is celebrated and protected.

3.3.6 LGBTQIA+ Rights

LGBTQIA+ is an umbrella term referring to individuals who identify as Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Intersex, and Asexual or Ally. The '+' includes other gender and sexual minorities such as non-binary, pansexual, and gender-fluid individuals. This terminology recognises the diversity of human experiences related to sexuality, gender identity, and bodily characteristics.

The LGBTQIA+ movement focuses on securing legal and social recognition of these identities and ensuring protection from discrimination, violence, and exclusion. Fundamental rights such as the freedom to self-identify, access to education and healthcare, legal recognition of relationships, and protection in the workplace are central to this struggle. Globally and in India, these rights are increasingly acknowledged within the framework of universal human rights, though challenges in law, policy, and practice remain.

□ Discrimination and exclusion

□ Inclusive democracy

□ Identity spectrum

□ Rights struggle

3.3.6.1 Judicial Milestones in Advancing LGBTQIA+ Rights in India

The Indian judiciary has played a significant role in recognising and affirming the rights of LGBTQIA+ individuals, particularly transgender persons, through landmark constitutional rulings. These decisions have contributed to dismantling traditional legal and societal norms rooted in binary gender frameworks and have progressively moved toward protecting individual autonomy, dignity, and equality under the Constitution.

NALSA v. Union of India (2014): In a pioneering judgment, the Supreme Court of India recognised transgender persons as a 'third gender' and affirmed their fundamental right to self-identify their gender, independent of medical or surgical procedures. The Court ruled that gender identity is intrinsic to individual dignity and personal freedom, and that discrimination based on gender identity violates Articles 14 (equality before the law), 15 (prohibition of discrimination), 19 (freedom of expression), and 21 (right to life and personal liberty). The judgment marked a shift in Indian gender jurisprudence by placing self-identification at the core of constitutional protection. It also directed central and state governments to take affirmative measures to ensure transgender persons' access to education, healthcare, employment, and social inclusion.

Navtej Singh Johar v. Union of India (2018): This ruling by the Supreme Court decriminalised consensual same-sex relations among adults by reading down parts of Section 377 of the Indian Penal Code. The Court emphasised the primacy of constitutional morality over prevailing social or religious norms, upholding the rights to equality, dignity, privacy, and personal liberty under Articles 14, 15, 19, and 21. While the judgment was a landmark in securing legal recognition for sexual minorities, it also acknowledged that decriminalisation alone is insufficient. The Court underlined the continuing need for legislative and administrative measures to address the structural discrimination and marginalisation experienced by LGBTQIA+ individuals, particularly transgender persons. **()**

3.3.6.2 Legislative Framework: Developments and Limitations

▶ **Transgender Persons (Protection of Rights) Act, 2019:** In the aftermath of progressive judicial pronouncements, India's legislative response to transgender rights has seen

Legal progress

Self-identification

Decriminalisation

notable developments, albeit with certain limitations. The principal statute in this area is the Transgender Persons (Protection of Rights) Act, 2019, which was enacted to operationalise the directives of the NALSA judgment. The Act prohibits discrimination against transgender individuals in areas such as education, employment, healthcare, and access to public services. It also mandates the creation of welfare boards and grievance redressal mechanisms.

However, the Act has attracted criticism from legal scholars and civil society for failing to fully align with the principles established in the NALSA ruling. Notably, the Act requires transgender individuals to apply for a certificate of identity through a district magistrate, and in cases of gender change (e.g., male to female or vice versa), it requires proof of medical intervention. This has raised concerns about the infringement of the right to self-identification and bodily autonomy. Additionally, the Act lacks specific provisions for affirmative action, housing rights, and social security, which are essential for addressing the socio-economic exclusion faced by many transgender persons.

Overall, while the legislative framework formally acknowledges transgender rights, its practical effectiveness is limited by procedural requirements and the lack of comprehensive implementation mechanisms. Continued legal reform, institutional support, and sensitisation are necessary to ensure that the rights affirmed by the judiciary are realised in practice.

The Kerala State Policy for Transgenders in Kerala (2015)

In 2015, Kerala became the first state in India to introduce a comprehensive policy specifically aimed at addressing the rights and welfare of transgender persons. The policy was initiated under the leadership of Dr. M.K. Muneer, then Minister for Social Justice in the United Democratic Front (UDF) government headed by Chief Minister Oommen Chandy.

This landmark policy was formulated in the context of the Supreme Court's judgment in NALSA v. Union of India (2014), which recognised transgender persons as a third gender and affirmed their constitutional right to self-identify. Reflecting the spirit of this judgment, the Kerala policy explicitly upholds the right of all transgender individuals to determine their gender identity without the requirement of medical or surgical certification.

The policy outlines a broad range of measures aimed at promoting social inclusion and reducing discrimination. Key provisions include:

▶ Equal access to education, employment, healthcare, housing, and public services.

- ► The introduction of gender-neutral facilities in public institutions.

- ► Implementation of social security schemes tailored to the needs of transgender persons.

- ► Provision of inclusive healthcare services, including mental health support.

- ► Sensitisation programmes for educators, healthcare professionals, and public servants to foster greater awareness and acceptance.

To support implementation, the government established a Transgender Justice Board to oversee the policy's rollout and monitor outcomes. The state also launched initiatives such as Samanwaya, a network of shelter homes for transgender individuals facing homelessness or violence. Additionally, scholarships, skill development, and vocational training programmes were introduced to improve educational attainment and economic self-sufficiency within the community.

Kerala's policy has been widely regarded as a pioneering example of state-level governance that translates judicial mandates into actionable social policy. By adopting a rights-based, participatory, and inclusive approach, it offers a potential model for other Indian states seeking to promote gender justice and transgender empowerment.

3.3.6.3 Debates and Contested Issues

Challenging the Gender Binary and Recognising Diversity

❐ Beyond binary

Traditional social and legal systems have historically operated within a binary framework of male and female, often based on biological sex. Contemporary perspectives increasingly view gender as a socially constructed identity, allowing for a spectrum of expressions beyond binary categories. Advocates for gender diversity argue that this approach promotes inclusivity and individual autonomy, especially for those who identify as transgender, intersex, or non-binary.

❐ Broader tensions

However, there are differing viewpoints. Some feminist theorists express concerns that an overly fluid conception of gender may obscure issues linked to biological sex, particularly those affecting cisgender women. Others question whether rapid changes in gender norms align with cultural, ethical, or religious beliefs in various societies. These debates reflect broader tensions around how institutions, such as the family, education systems, and legal frameworks, adapt to evolving understandings of identity.

Medicalisation and the Politics of Recognition

One of the most debated aspects of gender recognition is

whether legal identity should depend on medical procedures such as sex reassignment surgery (SRS) or hormone therapy. International human rights bodies, including the United Nations, generally oppose compulsory medical intervention as a precondition for legal recognition, emphasising the right to bodily autonomy.

In India, the Supreme Court's ruling in *NALSA v. Union of India* (2014) supported the right to self-identify one's gender, independent of medical or surgical procedures. However, the Transgender Persons (Protection of Rights) Act, 2019, introduces a certification process that, in practice, may involve medical verification. This has raised concerns about the consistency between legal ideals and administrative procedures. The debate centres on how states balance identity rights, administrative safeguards, and medical regulation.

Scientific Controversies and Cultural Anxiety

Scientific and cultural discussions around gender identity continue to evolve. Some researchers and authors, including Debra Soh in *The End of Gender*, argue that there should be more precise boundaries between scientific evidence and identity politics, particularly when it comes to medical interventions for children or adolescents. These perspectives often caution against early medical transition, citing long-term effects and the need for informed consent.

Opponents of this view argue that such critiques can reinforce stigma and hinder access to necessary healthcare for transgender individuals. They advocate for evidence-based care tailored to individual needs, along with safeguards that prevent coercion or misinformation. In both global and Indian contexts, balancing protecting individual rights with ensuring responsible medical practices remains an ongoing challenge.

Global Perspectives and Cultural Relativism

Internationally, approaches to LGBTQIA+ rights vary widely. Countries such as Canada, Argentina, and New Zealand have adopted policies that support same-sex marriage and self-determined gender identity. Others continue to criminalise homosexuality or deny recognition to non-binary identities. These disparities highlight the complex relationship between universal human rights norms and local cultural or religious values.

The concept of cultural relativism suggests that human

☐ Medical recognition

☐ Indian legal ambiguities

☐ Scientific debate

☐ Identity

☐ Global diversity

rights must be interpreted within specific social and cultural contexts. This sometimes leads to resistance against internationally recommended practices, especially in societies where traditional norms are firmly held. In India, the coexistence of progressive constitutional principles and conservative social attitudes illustrates the challenges of navigating legal reform in pluralistic societies.

Conclusion: Towards Inclusive Gender Justice

The discourse on LGBTQIA+ rights reflects wider debates about law, identity, autonomy, and social change. While judicial decisions in India and internationally have expanded the legal recognition of sexual and gender minorities, realising these rights in practice requires structural reforms, social sensitisation, and inclusive policy design.

An effective human rights approach should neither impose rigid medical or legal criteria nor dismiss legitimate concerns about implementation, ethics, or cultural variation. Instead, it must aim to uphold dignity, autonomy, and equality while allowing space for democratic debate, responsible healthcare, and cultural sensitivity.

Ensuring inclusion means addressing both legal gaps and everyday challenges - such as violence, discrimination, and lack of access to services - while maintaining a rights-based framework that supports diverse identities without enforcing conformity or erasure.

☐ Cultural relativism

☐ Legal vs. social reform

☐ Balanced rights approach

☐ Inclusive implementation

Summarised Overview

This unit addresses the rights of India's most vulnerable and historically oppressed communities through a human rights lens. It begins by examining women's rights and exploring legal and policy interventions such as the Domestic Violence Act, the POSH Act, and Beti Bachao Beti Padhao. It underscores the gap between legal guarantees and cultural realities, calling for an intersectional, rights-based policy approach. In the section on children, the unit covers constitutional provisions, the Right to Education (RTE) Act, the Juvenile Justice Act, and child-centric programmes such as ICDS and POSHAN Abhiyaan. The role of Child Welfare Committees and Juvenile Justice Boards in ensuring child rights is emphasised.

Dalit rights are explored through Articles 15, 17, and 338 and the SC/ST (Prevention of Atrocities) Act. The ongoing realities of untouchability, discrimination, and violence reflect the need for more robust implementation, legal literacy, and empowerment efforts. The unit also discusses minority rights, highlighting Articles 25–30 and the work of the

National Commission for Minorities. Despite legal protections, minorities still face discrimination and marginalisation that call for proactive state intervention.

Finally, the section on LGBTQIA+ rights evaluates landmark cases such as NALSA and Navtej Singh Johar, as well as legislation such as the Transgender Persons Act and Kerala's Transgender Policy. Despite legal progress, social stigma and bureaucratic hurdles persist. Together, these discussions reveal the importance of a human rights framework that is inclusive, intersectional, and rooted in lived realities. Legal protections must be translated into tangible empowerment and social justice.

Self-Assessment

1. What are the key constitutional provisions that protect the rights of women in India?

2. Discuss the significance of the Right to Education Act in ensuring child rights.

3. How does the SC/ST (Prevention of Atrocities) Act address caste-based violence?

4. What are the major challenges faced by India's religious minorities despite constitutional protections?

Assignments

1. Critically analyse the effectiveness of affirmative action policies in promoting Dalit empowerment.

2. Summarise and reflect on the Navtej Singh Johar v. Union of India judgment and its impact on constitutional morality and LGBTQIA+ rights.

3. Explain the significance of the NALSA judgment for transgender rights in India.

Reference

1. Agnes, F. (1999). *Law and gender inequality: The politics of women's rights in India.* Oxford University Press.

2. Government of India. (1950). *The Constitution of India.* Ministry of Law and Justice.

3. Supreme Court of India. (2018). *Navtej Singh Johar v. Union of India.*

4. Ministry of Women and Child Development. (2023). *Annual Report 2022–23.*

5. National Human Rights Commission. (2022). *Status of Dalit Human Rights in India.*

6. United Nations. (1989). *Convention on the Rights of the Child.*

7. UNICEF and NHRC reports

8. NALSA vs Union of India (2014)

Suggested Reading

1. Thorat, S., & Newman, K.S. (Eds.). (2010). *Blocked by Caste: Economic Discrimination in Modern India*. Oxford University Press.

2. Menon, N. (2009). *Sexualities*. Zubaan.

3. Kabeer, N. (1994). *Reversed Realities: Gender Hierarchies in Development Thought.* Verso.

4. Roy, A. (2016). *The Doctor and the Saint: Ambedkar, Gandhi and the Battle Against Caste*. Penguin India.

5. Merry, S. E. (2006). *Human Rights and Gender Violence: Translating International Law into Local Justice*. University of Chicago Press.

6. Soh, D. (2021). *The End of Gender: Debunking the Myths about Sex and Identity in Our Society.* Threshold Editions.

7. Transgender Persons Portal: https://transgender.dosje.gov.in

8. National Commission for Minorities: http://ncm.nic.in

9. NCPCR Child Rights Reports: https://ncpcr.gov.in

10. India Human Development Survey (IHDS): https://ihds.umd.edu

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

BLOCK 4
New Dimensions of Human Rights Violations

UNIT 1

Development and Human Rights Violations

Learning Outcomes

By the end of this unit, learners will be able to:

▶ understand the concept, evolution, and normative foundations of the Right to Development (RTD).

▶ analyse development-induced, conflict-induced, and climate-induced displacement as forms of human rights violations.

▶ evaluate the international legal protections available for refugees and displaced persons.

▶ examine India's approach and policies toward internal displacement and refugee protection.

▶ critically assess how economic globalisation, ecological degradation, and migration intersect with human rights frameworks.

▶ reflect on the need for rights-based, people-centred development and humanitarian responses.

Background

In the contemporary era, human rights violations extend beyond the traditional domains of state repression or civil liberties infringement. New challenges rooted in development policies, environmental crises, global inequality, and forced displacement have significantly reshaped the landscape of human rights. These violations often occur under the guise of progress and are justified by economic imperatives that marginalise vulnerable populations.

Among the most contested issues is the Right to Development (RTD), which asserts that every individual and people are entitled to participate in, contribute to, and enjoy economic, social, cultural, and political development. Rooted in the 1986 UN Declaration, RTD seeks to reconcile development with equity and justice. However, disparities in

global power structures and domestic policy gaps have limited its realisation. Moreover, displacement, whether caused by infrastructural projects, armed conflict, or climate crises, poses urgent questions about justice, state accountability, and international solidarity.

This unit delves into these new dimensions of human rights violations, with special emphasis on forced displacement and refugee protection. It examines India's legal vacuum on refugee rights and the contradictions in its development model. Drawing on international law and case studies, learners will be equipped to interrogate the shifting boundaries of human rights and advocate for inclusive, sustainable, and just frameworks.

Keywords

Right to Development, Displacement, Refugee Rights, Climate Justice, Internal Migration, Disasters, Humanitarian Protection

Discussion

4.1.1 Introduction

❏ Development-Rights Link

Development and human rights are deeply interdependent dimensions of human progress. While development aims to improve the quality of life and expand opportunities, it often unfolds within structures of inequality, exclusion, and power imbalance that lead to rights violations. The evolution of the Right to Development (RTD), recognised by the United Nations in 1986, reflects a growing understanding that true development must centre on human dignity, equity, participation, and sustainability. In today's globalised and digitally connected world, the challenges of displacement, climate change, conflict, and economic disparity have intensified debates on who benefits from development and at what cost.

❏ Indian experience

The Indian experience, ranging from rights-based welfare schemes like MGNREGA to struggles against displacement in projects such as the Narmada Dam, illustrates the complexity of balancing economic growth with social justice. This unit explores the theoretical foundations, contemporary relevance, and real-world manifestations of the RTD, examining how development policies intersect with human rights, particularly among vulnerable populations affected by displacement, disasters, and conflict. It also highlights global and national efforts

to protect the rights of refugees, internally displaced persons, and victims of human-made or natural disasters, reinforcing the principle that development without justice is neither sustainable nor legitimate.

4.1.2 The Right to Development (RTD)

4.1.2.1 Historical Evolution

The Right to Development (RTD) was formalised in the 1986 United Nations Declaration on the Right to Development, adopted by the UN General Assembly through Resolution 41/128. It defines development as an inalienable human right, asserting that every human person and all peoples have the right to participate in, contribute to, and enjoy economic, social, cultural, and political development. The Declaration places equal emphasis on the means and outcomes of development, affirming that the process of development must be participatory, inclusive, and environmentally sustainable. It also underscores that the full realisation of all human rights, civil, political, economic, social, and cultural, is both a goal and a condition of development. The RTD thus reflects a holistic vision of development as a collective endeavour grounded in equality, justice, and international cooperation.

❐ UN Declaration

The Right to Development (RTD) gained prominence in the 1980s during a period when newly independent postcolonial nations increasingly demanded restructuring of the global economic order to eliminate historically rooted disparities and neo-colonial exploitation. As articulated by the OHCHR, the 1986 UN Declaration on the Right to Development marked a paradigm shift from traditional aid-based and welfare-oriented development approaches to a rights-based, justice-driven model. It repositioned development as a matter of entitlement rather than charity, emphasising the need for active, free, and meaningful participation in development processes; fair distribution of its benefits; environmental sustainability; and full respect for self-determination. This framework rooted development firmly in international solidarity, cooperation, and the inherent dignity of all human beings.

❐ Post-colonial justice

Gary B. Madison, in his analysis of civil society and human rights, contends that development must be understood not as a mere economic or technocratic enterprise, but as a moral and political undertaking that demands the redistribution of power, voice, and opportunity. He underscores the centrality of civil

society in holding institutions accountable and ensuring that development policies are grounded in ethical responsibility and democratic participation. This resonates with the OHCHR's position that development is inseparable from human rights and must be assessed by its capacity to uplift the most marginalised, empower communities, and foster collective well-being rather than solely increasing economic output.

The UN Declaration That Almost Didn't Happen

The 1986 UN Declaration on the Right to Development faced stiff opposition from Western powers, who saw it as a threat to market-based development. Ironically, the United States was the only country to vote against it. Yet, decades later, the principles of RTD echo in the Sustainable Development Goals (SDGs). Sometimes a lone "no" can't stop a powerful "yes" from history.

4.1.2.2 Contemporary Relevance

Today, the RTD is central to global debates on economic justice, climate change, digital access, and post-pandemic recovery. The UN Special Rapporteur on Extreme Poverty and Human Rights has repeatedly underscored that the current global economic architecture, anchored in neoliberal trade regimes, restrictive intellectual property norms, and asymmetrical debt relationships, reinforces structural disadvantages for countries in the Global South. These systemic imbalances restrict states' fiscal space and developmental autonomy, thereby limiting their ability to fulfil socioeconomic rights. As the OHCHR affirms, such global constraints not only undermine the principles of international cooperation and equity but also constitute direct violations of the RTD, both in letter and in spirit, by denying communities meaningful participation in and fair benefits from development processes.

□ Economic architecture

□ Sovereignty versus rights

The Sustainable Development Goals (SDGs), adopted in 2015, incorporate RTD values, particularly in their emphasis on inclusive, equitable growth and leaving no one behind. However, as Robin Guittard argues in his critical essay "National Sovereignty vs. Human Rights," many states invoke sovereignty as a shield to deflect international scrutiny and accountability. This resistance not only undermines the collaborative spirit of global development but also weakens mechanisms for monitoring and enforcing human rights obligations, especially in contexts where economic and developmental decisions lead to systemic

exclusions or injustices.

Digital inequality further underscores the urgency and relevance of the Right to Development in our time. As advanced economies consolidate control over digital infrastructure, artificial intelligence, cloud computing, and proprietary technologies, the global South is increasingly marginalised in shaping the digital future. This digital divide is not merely a technological gap, but a human rights issue that affects access to education, healthcare, governance, and economic opportunities. As emphasised in OHCHR's 2023 statement on technology and human rights, equitable development must include digital inclusion. Therefore, the RTD today must encompass not only physical resources but also fair access to digital knowledge, platforms, and governance mechanisms, ensuring that all people have a political voice and agency in defining global technological and developmental priorities.

4.1.2.3 India's Approach

India has consistently championed the Right to Development (RTD) in international platforms as a collective entitlement of nations and peoples, especially those in the Global South. It has challenged the attempts by OECD countries to narrow or reinterpret the scope of RTD to suit neoliberal economic models. Instead, India asserts that global justice necessitates substantive obligations on developed nations, including equitable trade terms, unconditional technology transfer, and increased development assistance. Drawing from its postcolonial ethos, India views RTD as a corrective framework that addresses historical and structural inequities in the global order, aligning development policy with principles of fairness, autonomy, and international solidarity.

Domestically, India has introduced a range of programs designed to operationalise the Right to Development and address structural disparities in access to resources and opportunities. These include flagship schemes such as:

▶ **MGNREGA (Mahatma Gandhi National Rural Employment Guarantee Act)**: Enacted in 2005, this law provides a legal guarantee for at least 100 days of wage employment annually to every rural household whose adult members volunteer to do unskilled manual work. MGNREGA aims to enhance livelihood security in rural areas, empower local governance through gram panchayats, and build durable rural assets. The Act is notable for its rights-based approach

❐ Digital divide

❐ Global advocacy

to employment and its provisions for transparency, account-ability, and social audit mechanisms.

▶ **Aspirational Districts Programme**: Launched in 2018 by the Government of India, this initiative aims to rapidly transform the most underdeveloped districts of the country by improving key indicators in health, education, agriculture, financial inclusion, and infrastructure. It focuses on real-time data monitoring, convergence of central and state schemes, and fostering competition among districts through a dynamic ranking system to catalyse inclusive and equitable development.

▶ **National Rural Health Mission (NRHM)**: Launched in 2005, NRHM aims to improve healthcare delivery across rural India, especially for vulnerable populations like women, children, and the poor. It seeks to provide accessible, affordable, and quality healthcare through decentralised planning, increased public expenditure, and community participation. The mission emphasises strengthening public health infrastructure, deploying Accredited Social Health Activists (ASHAs), and improving maternal and child health outcomes. NRHM also integrates various national health programmes under a unified framework, aligning healthcare with the broader goals of inclusive development and the Right to Development.

□ Critique of exclusion

However, persistent regional disparities and the systemic exclusion of Adivasis, Dalits, women, and the urban poor from equitable participation in development raise significant human rights concerns. Dr. Siddaraju C., in his analysis of India's development landscape, critiques how dominant growth-oriented models often reinforce patterns of exclusion, environmental degradation, and socio-economic marginalisation. He emphasises the urgent need to embed a rights-based and justice-centred framework in development planning - one that prioritises redistribution, grassroots empowerment, and ecological sustainability over mere economic expansion. Such a framework, he argues, is essential for realising the transformative potential of the Right to Development (RTD) as envisaged in both national policy and international human rights discourse.

What Do Toilets Have to Do with Human Rights?

Everything. In 2010, the United Nations General Assembly declared access to water and sanitation a human right. Why? Because lack of clean toilets disproportionately affects

women and children, spreads disease, and denies people their dignity. Development isn't just about GDP - it's about ensuring that basic human needs are met. A toilet is more than a utility; it's a symbol of inclusion, equality, and respect.

4.1.3 Displacement and Refugees

4.1.3.1 Development-Induced Displacement

Large-scale infrastructure and industrial ventures such as dam construction, mining operations, expressways, and urban redevelopment projects frequently result in the involuntary displacement of local populations. As highlighted in the Global Report on Internal Displacement (IDMC 2025), millions are affected by development-induced displacement each year, with particularly severe consequences in the Global South. In the Indian context, the burden of such displacement disproportionately falls on marginalised communities, especially Scheduled Tribes (Adivasis), Dalits, and forest-dependent groups, who are often uprooted from their ancestral lands without adequate consultation, compensation, or resettlement. These populations not only lose access to physical resources but also experience cultural disintegration, social alienation, and long-term impoverishment.

☐ Involuntary evictions

The Narmada Bachao Andolan (NBA) stands as a historic and enduring symbol of anti-displacement resistance in India, protesting the large-scale forced relocation of tribal and rural communities due to the construction of the Sardar Sarovar Dam. The NBA not only highlighted the socio-economic and environmental costs of mega-development projects but also pioneered the use of legal and grassroots advocacy to demand equitable rehabilitation and participatory development planning. Harsh Mander's *Unheard Voices: Stories of Forgotten Lives* powerfully illustrates parallel narratives across India where displaced families, stripped of their homes and cultural ecosystems, were resettled in distant, unfamiliar regions without proper compensation, livelihood support, or community integration. These testimonies reveal how displacement often results in long-term psychological trauma, intergenerational poverty, and a deep erosion of identity, underscoring the urgent need to centre justice and consent in developmental decision-making.

☐ Resistance movements

Legal Protections in India

India has enacted several laws to protect those affected by

development-induced displacement. Among the most significant are:

- ▶ **The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (2013):** This law aims to address historical injustices by mandating the prior informed consent of affected communities, ensuring just compensation, and providing for rehabilitation and resettlement. It requires that at least 70–80% of affected people agree to land acquisition for private or public-private projects and includes provisions for social impact assessments. Despite its promise, implementation remains weak, with frequent bypassing of consent provisions and incomplete rehabilitation.

- ▶ **The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA):** Commonly known as the Forest Rights Act, this legislation recognises the historical rights of forest-dependent communities over their land and resources. It aims to correct colonial-era injustices and empower Adivasis by granting them legal titles and decision-making powers. However, administrative resistance, lack of awareness among beneficiaries, and legal contestations have hindered its full implementation.

Implementation gaps

Despite these laws, displacement continues under the guise of development, conservation, and urban renewal. The judiciary has played a mixed role - sometimes expanding the scope of rights, but at other times deferring to state-centric notions of development. Moreover, the lack of strong enforcement mechanisms, weak institutional accountability, and limited participation of affected communities in decision-making have created a gap between the legal framework and its real-world outcomes. Thus, while the legal protections exist on paper, their efficacy in safeguarding the rights and dignity of the displaced remains a significant human rights concern.

Medha Patkar: The Voice of the Drowned

Medha Patkar, founder of the Narmada Bachao Andolan (NBA), became a national symbol of resistance against development-induced displacement. She once fasted for 22 days, demanding rehabilitation for families displaced by the Sardar Sarovar Dam, earning international solidarity and fierce domestic opposition. Her activism turned a mega-dam into a global debate on the ethics of "development."

4.1.3.2 Conflict and Climate-Induced Displacement

In addition to development projects, India experiences significant internal displacement driven by ethnic and religious conflicts, as well as the escalating impacts of climate-related disasters. Communal and ethnic tensions, such as those witnessed in Assam, Manipur, Gujarat (2002), and Muzaffarnagar (2013), often lead to violence, targeted attacks, and mass displacements, disproportionately affecting religious and caste minorities. Simultaneously, India's geographic vulnerability to climate extremes - rising sea levels, monsoon irregularities, floods, cyclones, and droughts - contributes to an increasing number of climate refugees. The Internal Displacement Monitoring Centre (IDMC) has documented an upward trend in climate-induced displacement in India, stressing the urgent need for a rights-based national policy framework that recognises the legal status and rehabilitation entitlements of Internally Displaced Persons (IDPs).

❐ Multiple drivers

▶ **Ethnic violence**: Assam (notably the Bodo-Muslim conflicts, which stem from long-standing disputes over land, identity, and political autonomy), Manipur (marked by tribal clashes between the Meitei and Kuki-Zo communities, exacerbated by tensions over affirmative action policies, land rights, and state responses to ethnic assertions)

▶ **Communal riots**: The 2002 Gujarat riots resulted in the deaths of over a thousand people, mostly from the Muslim community, following the Godhra train burning incident. These riots exposed deep communal divides and significant lapses in state accountability. The Muzaffarnagar violence of 2013, which displaced tens of thousands of people in Uttar Pradesh, stemmed from escalating Hindu-Muslim tensions amid political polarisation. Both events not only caused immense human suffering but also left long-lasting effects on communal harmony, minority rights, and the state's duty to protect vulnerable populations.

▶ **Climate Disasters**: India faces escalating challenges from climate-induced events such as the recurrent floods in Bihar that displace millions annually, increasingly severe cyclones in Odisha, which devastate coastal ecosystems and livelihoods, and persistent droughts across central Indian states like Maharashtra and Madhya Pradesh, which severely impact agriculture and access to water. These environmental disruptions disproportionately affect the poor

and marginalised, exacerbating vulnerabilities and fuelling internal displacement without adequate social protection or legal redress.

The Internal Displacement Monitoring Centre (IDMC) reports that climate-induced displacement in India has been escalating year after year, driven by intensifying environmental stressors such as extreme weather events, rising sea levels, and prolonged droughts. These displacements disproportionately affect vulnerable communities, leading to prolonged humanitarian crises and highlighting the urgent need for climate-resilient policies and robust rights-based responses to internal migration. Despite this, India lacks a comprehensive national policy or statutory legal framework for Internally Displaced Persons (IDPs). Although the UN Guiding Principles on Internal Displacement (1998) offer an authoritative normative standard, their non-binding nature means that states - including India - are not legally obligated to adopt or enforce them. Consequently, domestic responses to internal displacement in India have remained fragmented, ad hoc, and often driven more by political expediency than human rights considerations. As highlighted by the Internal Displacement Monitoring Centre and various civil society reports, the absence of a coherent policy exacerbates the vulnerability of IDPs, leaving them without adequate access to shelter, food security, healthcare, education, or legal redress.

As Dr. Padma Singh points out, the absence of institutional and policy-level support exacerbates human suffering and entrenches patterns of exclusion. Displaced persons - particularly those affected by conflict, climate change, or forced evictions - often find themselves in precarious informal settlements lacking access to clean drinking water, adequate housing, healthcare, and quality education. This systemic neglect not only denies them their basic human rights but also perpetuates cycles of poverty, insecurity, and marginalisation. The absence of targeted government interventions and the fragmentation of relief measures leave displaced communities out of long-term development planning, further reinforcing their invisibility in the human rights discourse.

4.1.3.3 UN Framework and International Protections

The international legal framework for refugee protection is anchored in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. These instruments, overseen by

❏ Policy gaps

❏ Institutional neglect

the United Nations High Commissioner for Refugees (UNHCR), define a refugee as a person who, owing to a well-founded fear of persecution based on race, religion, nationality, membership of a particular social group, or political opinion, is outside their country of origin and is unable or unwilling to return.

Two core principles guide the UN framework:

▶ **Non-refoulement**: This fundamental norm prohibits the expulsion or return of refugees to territories where their life or freedom would be threatened. It is widely recognised as part of customary international law and applies regardless of a state's ratification status.

▶ **Minimum Standards of Treatment**: Refugees are entitled to access legal protection, education, healthcare, housing, employment, and freedom of movement.

The UNHCR, established in 1950, plays a central role in monitoring state compliance with these obligations, facilitating voluntary repatriation, local integration, or third-country resettlement, and providing humanitarian assistance during emergencies. However, despite these mandates, protection gaps persist. Legal scholars such as Walter Kälin and Jörg Künzli argue that while the normative scope of international refugee law is well established, enforcement remains weak due to the politicisation of asylum, rising xenophobia, and restrictive immigration policies in many host countries. These factors have eroded asylum spaces globally, making it increasingly difficult for refugees to find safety and dignity.

Additionally, the UNHCR faces limitations in mandate and resources, often having to rely on state cooperation, which may not always be forthcoming. As highlighted in PUCL's 2024 report, global refugee regimes are strained by protracted crises, conflicts, and climate change, requiring a renewed commitment to global justice and burden-sharing. The international community thus faces a critical challenge: to uphold the spirit of the Refugee Convention amid rising populism and securitisation, and to adapt legal norms to emerging patterns of forced displacement, including those induced by climate and environmental change.

Stateless in Two Countries - The Rohingya Paradox

The Rohingya, a Muslim minority in Myanmar, have been rendered stateless by their own government since the 1982 Citizenship Law, which excluded them from official eth-

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nic groups. Despite centuries of residence in Rakhine State, they are labeled "illegal Bengalis" and denied access to basic rights - education, health care, and freedom of movement.

When a state denies your existence, what happens to your rights?

4.1.3.4 India's Approach

India is not a signatory to the 1951 Convention or the 1967 Protocol, citing concerns over sovereignty and national security. However, it has historically hosted a variety of refugee groups fleeing persecution and conflict in neighbouring regions. These include Tibetan refugees since 1959, Sri Lankan Tamils from the 1980s, the Chakma community from Bangladesh, Afghan asylum seekers, and, most recently, Rohingya Muslims from Myanmar. Despite its non-signatory status, India has allowed many of these groups to settle and build communities within its borders, albeit with varying degrees of legal protection and recognition.

❏ Non-signatory status

In the absence of a dedicated refugee law, India provides some protections to refugees through constitutional guarantees and judicial interpretations. The Constitution of India, particularly Articles 14 and 21, offers protection to all persons, including non-citizens. In NHRC v. State of Arunachal Pradesh (1996), the Supreme Court intervened to prevent the expulsion of Chakma refugees, reinforcing the idea that the right to life and liberty under Article 21 extends to refugees. More recently, in K.S. Puttaswamy v. Union of India (2017), the Supreme Court affirmed that the right to privacy is a fundamental right applicable to all individuals, regardless of citizenship status.

❏ Judicial safeguards

Despite these constitutional protections, refugee policies in India remain fragmented and highly discretionary. The treatment of Rohingya refugees, for example, has highlighted the inconsistencies in India's approach. Many Rohingyas have been detained, denied access to basic services, and face the risk of deportation despite having UNHCR refugee cards. This discretionary approach creates legal uncertainty and undermines the rights and dignity of refugees.

❏ Policy inconsistencies

Civil society organisations and legal advocates have called for a comprehensive national refugee law to provide clarity, transparency, and accountability in refugee protection. Organisations such as The Other Media, MISAAN, and Lawyers Collective have been at the forefront of this advocacy, urging the

❏ Call for law

Indian state to align its policies with international human rights standards. The People's Union for Civil Liberties (PUCL), in its 2024 report, emphasises that India's ad hoc and securitised refugee management undermines its constitutional ethos and obligations under customary international law.

Legal scholars such as Upendra Baxi argue that India's refugee policy must be grounded not in discretionary benevolence but in principles of global justice, interdependence, and constitutional morality. He asserts that reimagining refugee rights in India involves recognising refugees' agency and dignity, ensuring due process, and institutionalising protections through a legal framework that balances national security concerns with humanitarian commitments. In conclusion, while India has demonstrated a tradition of providing refuge, the absence of a codified refugee policy continues to pose challenges for both refugees and the state. A rights-based legislative framework, grounded in constitutional values and international human rights norms, is essential for ensuring consistent and humane treatment of refugees in India.

A National Law That Got Stuck in a Cabinet

India has no refugee law - but did you know that in 2011, the Ministry of Home Affairs quietly drafted one? It never made it past the Cabinet. Some rights die not in protest, but in policy files.

4.1.3.5 Challenges and Advocacy

The landscape of refugee rights advocacy in India is fraught with numerous legal, administrative, and socio-political challenges. A primary issue is the absence of a comprehensive national refugee law, which leads to a lack of legal clarity in distinguishing refugees from other categories of migrants, such as undocumented or irregular immigrants. This legal ambiguity leaves refugees vulnerable to being labelled as "illegal foreigners," subjected to arbitrary detention, and denied access to legal remedies or basic entitlements.

Moreover, India's administrative response to refugees remains ad hoc and highly discretionary, shaped more by diplomatic and political calculations than by a principled human rights framework. For instance, while some refugee groups, such as Tibetans and Sri Lankan Tamils, have been granted certain privileges, others, like the Rohingya, have faced criminali-

sation, eviction, and deportation threats. The use of the Foreigners Act, 1946, and related state-level statutes allows authorities to detain and deport refugees without a fair hearing, thus violating the principles of natural justice and international norms such as non-refoulement.

The detention of refugees in prisons or detention centres, often in inhumane conditions, has been widely criticised by civil society and international human rights watchdogs. In many cases, refugees are held alongside criminal offenders without access to legal counsel or interpreters, which further exacerbates their trauma and marginalisation. Amidst these challenges, a vibrant network of civil society organisations, including The Other Media, MISAAN, Lawyers Collective, and refugee-led initiatives, continues to play a crucial role in advocating for a rights-based refugee policy in India. These organisations provide legal aid, conduct policy research, engage in public advocacy, and build capacity for refugee communities. Their work has highlighted the need for codified protections consistent with India's constitutional values of equality and dignity, as well as its obligations under customary international law.

Reports such as PUCL's 2024 publication, "*Rule of Law, Electoral Democracy, and the Continuing Struggle for Justice*", argue that India's reluctance to adopt a refugee law contradicts its democratic and pluralist ethos. The report calls for legislative reforms that safeguard refugees from arbitrary treatment and ensure access to essential services, including education, health care, housing, and employment opportunities.

Legal scholar Upendra Baxi strongly critiques the discretionary and securitised nature of refugee governance in India. He emphasises that refugee rights must not be treated as acts of charity but as enforceable entitlements grounded in constitutional morality, global justice, and transnational interdependence. According to Baxi, only a rights-based and participatory legal framework, one that recognises the agency of refugees and includes them in the processes that shape their lives, can fulfil India's ethical and constitutional responsibilities.

In summary, without a comprehensive and humane refugee law, India's current refugee protection regime remains fragmented, inconsistent, and prone to political manipulation. The urgent need is for a principled, inclusive, and codified framework that centres the dignity, voice, and agency of refugees within India's legal and policy landscape.

4.1.4 Disasters and Human Rights Violations

Disasters, whether natural, human-made, or climate-induced, are among the most devastating disruptions to human life and dignity. Traditionally viewed as acts of nature or fate, disasters are increasingly recognised as human rights issues because their impacts are not evenly distributed; they disproportionately harm the poor, marginalised, and socially excluded. The Office of the United Nations High Commissioner for Human Rights (OHCHR) affirms that disasters expose and intensify pre-existing inequalities, revealing the failures of governance, planning, and protection that underpin systemic human rights violations.

In this sense, disasters are not merely natural phenomena, but social and political events shaped by human vulnerability, inadequate policy, and the failure of states to uphold fundamental rights, such as the rights to life, health, housing, food, water, and security. From the Indian Ocean Tsunami (2004) to the COVID-19 pandemic and climate-related floods in Kerala, the magnitude of suffering in each event has been determined less by the scale of the hazard and more by the state's preparedness, inclusivity, and respect for human rights.

4.1.4.1 Disasters as Human Rights Issues

The United Nations Human Rights Council (UNHRC) and OHCHR have consistently highlighted the link between disasters and human rights violations. According to the Sendai Framework for Disaster Risk Reduction (2015–2030), the impact of disasters is profoundly influenced by social inequality, weak institutions, and discrimination. Thus, the consequences of disasters cannot be understood without recognising structural injustices that make certain groups more vulnerable, especially women, children, persons with disabilities, indigenous communities, and migrants.

When states fail to prevent or respond to disasters effectively, several human rights are directly violated:

▶ Right to Life: Negligence in early warning systems, unsafe housing, and lack of emergency relief may constitute state failure to protect life (Article 6, ICCPR).

▶ Right to Health: Disasters often destroy medical infrastructure, contaminate water sources, and restrict access to essential medicines, violating Article 12 of the *ICESCR*.

▶ Right to Adequate Housing and Shelter: Forced evictions,

- ❑ Disasters and Inequality

- ❑ Human Rights Dimension

- ❑ Vulnerability and Inequality

relocation without consent, and failure to rebuild homes after disasters infringe Article 11 of the *ICESCR*.

▶ Right to Water and Sanitation: As recognised by the UN General Assembly (2010), denial of clean water and sanitation during relief efforts undermines human dignity.

▶ Right to Information and Participation: Lack of transparency and exclusion from decision-making in disaster response processes deny affected communities their participatory rights.

Therefore, disasters act as mirrors of governance quality, revealing how deeply human rights principles are embedded (or neglected) within state structures.

4.1.4.2 Types of Disasters and Case Examples

Natural Disasters

The 2004 Indian Ocean Tsunami remains a tragic example of how natural hazards can translate into widespread human rights crises. Over 230,000 people died across 14 countries, including India, Indonesia, and Sri Lanka. In India, thousands of Dalit and fishing families were displaced. Reports by Human Rights Watch (2005) documented discrimination in relief distribution—where marginalised groups received delayed or inferior assistance due to caste bias. This revealed how deeply entrenched social hierarchies shape vulnerability and recovery. Similarly, the Uttarakhand floods (2013) and Kerala floods (2018) exposed governance failures in land-use planning, deforestation, and dam management. The poorly regulated development in ecologically fragile zones amplified destruction, highlighting how environmental mismanagement and corruption can amount to indirect human rights violations.

Technological and Industrial Disasters

Human-induced disasters such as the Bhopal Gas Tragedy (1984) epitomise corporate negligence and state complicity in human rights violations. The leakage of methyl isocyanate gas from the Union Carbide plant killed over 20,000 people, considering both immediate and long-term effects and left generations suffering from chronic illnesses. Decades later, survivors continue to demand justice and adequate compensation. The incident violated fundamental rights to life, health, and the right to a remedy, illustrating how industrial disasters expose systemic failures in corporate accountability and environmental justice.

Climate-Induced Disasters

Climate change acts as a "threat multiplier," intensifying the frequency and severity of floods, cyclones, droughts, and heatwaves. The Intergovernmental Panel on Climate Change (IPCC) warns that climate impacts will most severely affect those already living in poverty and marginalisation. Rising sea levels threaten island nations and coastal regions, leading to "slow-onset disasters" that displace millions, creating what scholars now call climate refugees. In India, recurrent floods in Bihar, droughts in Maharashtra, and cyclones in Odisha and West Bengal exemplify how climate vulnerability intersects with inequality, leaving low-income and marginalised populations disproportionately affected. When governments fail to implement adaptation, relief, or resettlement measures, such omissions constitute violations of the rights to development and to a healthy environment.

Pandemics and Public Health Emergencies

The COVID-19 pandemic (2020–2022) starkly demonstrated how disasters expose social inequities and the fragility of human rights. In India, sudden lockdowns stranded millions of migrant workers without food, wages, or shelter, violating rights to movement, livelihood, and dignity. Women faced increased domestic violence and unpaid care burdens, while the digital divide excluded millions from online education and healthcare. In 2021, the UN Special Rapporteur on Extreme Poverty and Human Rights observed that pandemic responses in many countries "sacrificed human dignity for administrative expediency," underlining the ethical imperative of rights-based disaster governance.

4.1.4.3 India's Approach to Disaster Management

India's approach to disaster management has gradually evolved toward a more institutionalised and rights-aware framework, especially following the enactment of the Disaster Management Act (2005), which established the National Disaster Management Authority (NDMA) as the apex body for disaster prevention, mitigation, preparedness, and rehabilitation. The Act marked a paradigm shift from reactive relief-based measures to proactive risk reduction, emphasising resilience and coordinated institutional response. However, as scholars such as Upendra Baxi (2010) and Harsh Mander (2015) argue, India's disaster governance remains technocratic rather than rights-based, often prioritising infrastructure reconstruction and administrative ef-

❏ Institutional Evolution

ficiency over issues of equity, participation, and justice.

Despite a robust institutional framework, several critical gaps persist. The relief and rehabilitation efforts often fail to ensure equitable access for historically marginalised groups such as Dalits, Adivasis, and informal workers, whose vulnerabilities are amplified during disasters due to social exclusion and economic insecurity. The gender sensitivity in disaster management also remains limited - women frequently face increased risks of sexual violence and economic marginalisation in relief camps and recovery processes. Moreover, internally displaced persons (IDPs) are rarely recognised as rights-holders with entitlements to livelihood, education, and participation in decision-making. The accountability mechanisms to address corporate negligence and administrative lapses in disaster-induced human rights violations also remain weak or absent.

The National Policy on Disaster Management (NPDM, 2016) formally acknowledges the importance of community participation, inclusivity, and human rights protection in disaster risk reduction. Yet, in practice, implementation continues to be state-centric, focusing on emergency control rather than empowerment of affected populations. This gap between policy and practice underscores the need to reorient disaster management toward a rights-based approach, where the protection of dignity, equality, and justice forms the core of state responsibility rather than an adjunct to humanitarian relief.

4.1.4.4 Disasters, Development, and the Right to Justice

Disasters illuminate the profound intersection between development and human rights, revealing how patterns of growth and governance shape human vulnerability. Unplanned urbanisation, unregulated industrial expansion, deforestation, and unsustainable resource extraction directly heighten exposure to risk and erode ecological resilience. When states privilege economic growth and infrastructural expansion over environmental sustainability and human security, development itself becomes a generator of risk and inequality. Such a growth model often displaces marginalised communities, destroys traditional livelihoods, and intensifies climate-induced hazards, thereby translating economic progress into new forms of structural violence.

As Amartya Sen (1999) argues in *Development as Freedom*, disasters must be understood not merely as external shocks but

□ Gaps and Exclusion

□ Policy and Practice Gaps

□ Development and Human Vulnerability

as expressions of "unfreedoms", the absence of social, economic, and political capabilities that prevent individuals and communities from protecting themselves or recovering effectively. In this view, vulnerability is not a natural condition but a manifestation of unequal access to resources, information, and decision-making. Hence, disaster management is not solely a technical or administrative process but a deeply moral and political obligation grounded in the principles of dignity, equality, and justice. A rights-based approach to development demands that policies integrate risk reduction, environmental protection, and social inclusion as intrinsic components of progress, ensuring that the pursuit of prosperity does not come at the expense of human security.

Sustainable development, therefore, must go hand in hand with human rights protection. Building resilience requires empowering communities through education, participation, and equitable access to resources, allowing them to act as agents of their own safety rather than passive recipients of aid. In this sense, the true measure of development is not merely economic output, but the freedom from fear, deprivation, and vulnerability that enables individuals to live with dignity in the face of adversity.

Summarised Overview

This unit addresses the contemporary evolution of human rights violations in a globalised world. It begins by exploring the Right to Development, highlighting its roots in the Global South's demands for equity and collective rights. While international declarations have affirmed this right, implementation remains limited due to neoliberal economic models and geopolitical inequalities. The unit interrogates these contradictions and their impact on marginalised populations, especially in countries like India.

The discussion then shifts to displacement, dividing it into three major categories: development-induced, conflict-induced, and climate-induced. The social and economic costs of displacement are examined, particularly in the absence of strong legal frameworks for Internally Displaced Persons (IDPs). The unit also critically evaluates the situation of refugees and asylum seekers, focusing on India's lack of a national refugee law and its ad hoc policy responses. This analysis is situated in international norms such as the 1951 Refugee Convention and recent global compacts.

By highlighting these new dimensions of violations, the unit calls for reimagining human rights beyond individualistic and civil-political boundaries. It makes a strong case for structural reforms, participatory development, and rights-based responses that centre the voices of displaced and vulnerable communities.

Self-Assessment

1. What is the Right to Development, and how is it linked to human rights?

2. How does displacement, whether development-induced or conflict-induced, constitute a violation of human rights?

3. What legal protections are available for refugees under international law?

4. Why is India's approach to refugees considered ambiguous or inadequate?

5. In what ways can climate change be understood as a human rights issue?

Assignment Questions

1. Analyze the human rights implications of a large infrastructure project in India (e.g., a dam, highway, or SEZ) that resulted in development-induced displacement. Assess whether the Right to Development was upheld or violated.

2. Draft a policy brief recommending a legal framework for protecting refugees and asylum seekers in India. Address international obligations, security concerns, and humanitarian principles.

3. Explain the key challenges in realising the Right to Development.

Reference

1. United Nations. (1986). *Declaration on the Right to Development*.

2. Sengupta, A. (2002). *On the Theory and Practice of the Right to Development*. Human Rights Quarterly, 24(4), 837–889.

3. Human Rights Center. (2005). *After the tsunami: Human rights of vulnerable populations*. University of California, Berkeley.

4. Kälin, W. (2008). *Guiding Principles on Internal Displacement*. Brookings Institution.

5. Chimni, B. S. (2009). *The Birth of a 'Discipline': From Refugee to Forced Migration Studies*. Journal of Refugee Studies, 22(1), 11–29.

6. Bhagat, R. B. (2012). *Internal Migration in India: Are the Underprivileged Migrating More?* Asia-Pacific Population Journal, 27(1), 63–79.

7. OHCHR. (n.d.). Right to Development. https://www.ohchr.org/en/right-to-development

8. Government of India. (2016). *National policy on disaster management (NPDM 2016)*. National Disaster Management Authority (NDMA).

Suggested Reading

1. Sen, A. (1999). *Development as Freedom*. Oxford University Press.

2. Wisner, B., Blaikie, P., Cannon, T., & Davis, I. (2004). At risk: Natural hazards, people's vulnerability and disasters (2nd ed.). Routledge.

3. Kälin, W., & Entwisle Chapuisat, H. (2017). *Breaking the Impasse: Reducing Protracted Internal Displacement as a Collective Outcome. Case Study: Ukraine.* UN OCHA.

4. Baxi, U. (2010). The future of human rights (3rd ed.). Oxford University Press.

5. Mander, H. (2015). Looking away: Inequality, prejudice and indifference in new India. Speaking Tiger.

6. UNHCR: https://www.unhcr.org

7. Global Compact on Refugees: https://globalcompactrefugees.org

8. Internal Displacement Monitoring Centre (IDMC): https://www.internal-displacement.org

9. Climate and Migration Coalition: https://climatemigration.org.uk

10. Centre for Equity Studies (India): https://centreforequitystudies.org

11. Israel-Palestine Conflict https://www.aljazeera.com/tag/israel-palestine-conflict/

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

Human Rights Violations in Digital Spaces

Learning Outcomes

By the end of this unit, learners will be able to:

▶ explain the concept of digital human rights and their relationship to traditional human rights.

▶ identify the major forms of human rights violations that occur in digital environments.

▶ discuss issues related to data breaches, identity theft, and privacy violations.

▶ analyse the causes and consequences of the digital divide and its impact on equality and inclusion.

▶ examine the nature and effects of cyberbullying and online harassment.

▶ evaluate the responsibilities of states and corporations in protecting digital rights.

▶ explore the ethical challenges associated with artificial intelligence, surveillance, and algorithmic bias.

Background

The digital revolution has transformed how societies function—reshaping communication, governance, education, and commerce. However, along with immense opportunities, it has brought new challenges to human rights. In the digital environment, rights such as privacy, freedom of expression, and equality face unprecedented threats. As the United Nations Human Rights Council affirmed in 2018, "the same rights that people have offline must also be protected online." Yet, phenomena such as surveillance capitalism, data exploitation, cyber harassment, and digital exclusion reveal widening gaps in human rights protection. This unit explores these emerging challenges under key themes: data breaches and identity theft, digital divide and inclusion, and cyberbullying and online harassment. It also examines the roles of governments and corporations in ensuring digital accountability, ethical use of artificial intelligence, and protection of human dignity in cyberspace.

Discussion

4.2.1 Introduction

The rapid advancement of digital technologies has reshaped human interaction, governance, commerce, and social participation. Today, technologies such as artificial intelligence, big data, and social media have a significant influence on nearly every aspect of our daily lives, ranging from communication and governance to education and commerce. However, these technologies have also generated new forms of human rights violations, necessitating a reinterpretation of human rights within the digital environment.

❑ Digital Transformation and Human Rights Challenges

Digital rights are now recognised as an extension of universal human rights in online spaces. According to the United Nations Human Rights Council (2018), all rights granted offline, including privacy, freedom of expression, and access to information, must be protected with equal force online. This recognition stems from the understanding that technology is not neutral; it can empower individuals and communities, yet it can also be used for surveillance, exploitation, misinformation, and discrimination (Hildebrandt, 2015).

❑ Recognition of Digital Rights

The digital environment presents three major areas of human rights concern:

▶ **Data breaches and identity theft:** Unauthorised access to personal data violates the right to privacy and security.

▶ **Digital divide:** Unequal access to digital technologies restricts participation in education, employment, and governance, reinforcing social inequality.

▶ **Cyberbullying and online harassment:** Online spaces have enabled hate speech, targeted harassment, and psychological abuse, especially against women, children, and marginalised groups.

These challenges demand a strong digital rights framework. As traditional legal systems struggle to keep pace with technological change, gaps in regulation and accountability persist. This situation calls for a robust human rights-based approach to digital governance that protects individuals while promoting digital inclusion and ethical technology use.

4.2.2 Data Breaches and Identity Theft

Data breaches and identity theft are among the most serious human rights concerns in digital environments. They pose direct threats to the right to privacy, security, and human dignity. According to the International Telecommunication Union (ITU, 2020), a data breach occurs when sensitive or confidential information is accessed or disclosed without authorisation, while identity theft involves the unlawful acquisition and misuse of another person's personal data for fraudulent purposes.

Digital transformation in governance, banking, healthcare, and social media has led to large-scale collection and storage of personal data. While this data is essential for service delivery, weak cybersecurity policies and profit-driven data practices have made individuals vulnerable to exploitation. These violations are intensified by surveillance capitalism, where corporations collect and monetise personal data for behavioural prediction and targeted advertising, often without informed consent (Zuboff, 2019). Similarly, governments collect biometric and identity data through national identification programs, posing significant risks if safeguards are inadequate.

4.2.2.1 Meaning and Types of Data Breaches

Data breaches can be classified into several types based on the methods used:

▶ **Hacking and Cyber Intrusions:** Attackers exploit technological vulnerabilities to steal or manipulate data.

▶ **Insider Breaches:** Authorised employees or contractors misuse their privileged access for personal or financial gain.

▶ **Phishing and Social Engineering:** Individuals are deceived into revealing passwords or personal details.

▶ **Biometric and Cloud Data Breaches:** Weak security in digital identity systems and cloud databases exposes sensitive fingerprint, facial recognition, and Aadhaar-like biometric records.

□ Threats to Privacy and Personal Data

□ Surveillance Capitalism and the Risks of Data Exploitation

▶ **Physical Data Theft:** Laptops, storage drives, or physical documents containing sensitive information are stolen.

Biometric breaches are grave because, unlike passwords, biometric data cannot be changed or reissued. Once compromised, such data can permanently endanger an individual's identity security.

4.2.2.2 Biometric and Financial Data Risks

Financial identity theft is one of the most common consequences of data breaches. Stolen bank details, credit card numbers, and login credentials are often sold on the dark web, enabling fraudulent transactions and cyber fraud. Likewise, biometric identity theft poses a threat to access to welfare systems, voting rights, and healthcare services, particularly in developing countries where digital ID systems are integrated with public services (Khera, 2019). These risks underscore the urgent need for robust ethical and legal frameworks to regulate the collection and storage of biometric data.

4.2.2.3 Corporate and Government Surveillance Capitalism

Surveillance capitalism refers to an economic system in which personal data is commodified for profit (Zuboff, 2019). Technology companies such as Google, Meta (Facebook), and Amazon collect user data on a massive scale to influence consumer behaviour. Similarly, governments are increasingly using digital surveillance tools for national security purposes, which can sometimes infringe on civil liberties. When surveillance is carried out without transparency or accountability, it violates human rights norms developed under Article 12 of the Universal Declaration of Human Rights (UDHR, 1948), which guarantees protection against arbitrary interference with privacy.

4.2.2.4 Case Studies

1. **Facebook–Cambridge Analytica Scandal (2018):** Over 87 million Facebook users' data was harvested without consent to influence political campaigns in the U.S. and U.K. elections (Isaak & Hanna, 2018). This case exposed how corporate misuse of data can manipulate democratic processes.

2. **Aadhaar Privacy Case (India):** India's Aadhaar program, the world's largest biometric ID system, faced severe crit-

icism after reports of unauthorised access and sale of citizen data were published (Khera, 2019). In Justice K.S. Puttaswamy v. Union of India (2017), the Supreme Court of India declared that privacy is a fundamental right under Article 21 of the Constitution, thereby imposing limits on the use of Aadhaar.

3. **Equifax Data Breach (2017):** A cyber-attack on Equifax exposed personal and financial information of 147 million people. This breach demonstrated corporate negligence in cybersecurity and its large-scale human consequences (Federal Trade Commission, 2019).

The World's Biggest Data Leak

In 2021, LinkedIn experienced one of the largest data leaks in history. Personal data from nearly 700 million users, about 90% of its total user base, was posted online. This breach included email addresses, phone numbers, and work details, exposing how even major corporations can fail to secure sensitive information. The incident underscored the urgent need for global data protection standards and stronger digital accountability.

4.2.3 Digital Divide and Inclusion

The digital divide refers to the unequal distribution of access to digital technologies, the internet, and digital literacy across different socioeconomic groups. It is not merely a technological gap but a social, economic, and human rights concern that affects the ability of individuals to participate equally in the digital age. According to the International Telecommunication Union (ITU, 2021), nearly 2.7 billion people globally still lack internet access, with the majority living in developing countries. This inequality restricts access to essential rights, including education, information, employment, and participation in public life.

❏ Digital Divide

Digital inclusion, in contrast, is the process of ensuring equitable access to digital resources for all individuals, regardless of their socio-economic status, gender, geography, age, or ability. The United Nations recognises digital access as a key enabler of development, as reflected in the Sustainable Development Goals (SDGs), particularly SDG 9 (Industry, Innovation and Infrastructure) and SDG 10 (Reduced Inequalities). Without equitable access, digital progress risks reinforcing existing inequalities rather than reducing them.

❏ Digital Inclusion

Internet Saathis: Women Bridging the Gap

In rural Rajasthan, a group of women trained under the Internet Saathi programme, a collaboration between Google and Tata Trusts, taught over 200,000 women to use smartphones for education, healthcare, and banking. Their success stories show how digital literacy can empower women and challenge patriarchal norms in traditional societies.

4.2.3.1 Socio-Economic, Gender, and Rural – Urban Gaps

The digital divide has multiple dimensions that reflect broader patterns of inequality:

▶ **Socio-Economic Divide:** People from low-income households are less likely to own digital devices or afford reliable internet services. Economic constraints severely limit digital participation and access to online opportunities (World Bank, 2020).

▶ **Gender Divide:** Women and girls, especially in South Asia and Sub-Saharan Africa, have significantly lower access to mobile internet due to socio-cultural restrictions, safety concerns, and limited digital literacy. The GSMA (2022) reports that women in low- and middle-income countries are 16% less likely than men to use mobile internet.

▶ **Rural–Urban Divide:** Urban areas have better access to digital infrastructure, while rural and remote regions lag due to inadequate connectivity and investment. In India, for example, only 37% of rural households have internet access compared to 68% in urban areas (National Sample Survey Office, 2021), revealing how infrastructural inequality translates directly into limited educational and economic opportunity

▶ **Educational Divide:** Individuals with lower levels of education are less likely to possess the necessary skills to participate effectively in digital spaces. This limits their access to e-learning and digital employment.

These structural inequalities demonstrate that the digital divide is rooted in wider socio-economic conditions and power disparities.

4.2.3.2 Digital Exclusion as a Human Rights Issue

Digital exclusion is fundamentally a human rights challenge. Article 19 of the Universal Declaration of Human

> ❐ Digital Divide: Multiple Dimensions

Rights (UDHR, 1948) recognizes the right to access information, while Article 26 guarantees the right to education. In the 21st century, these rights increasingly depend on digital access. The United Nations Human Rights Council (2021) has affirmed that denying internet access restricts freedom of expression, access to information, and participation in public life. The COVID-19 pandemic intensified global awareness of digital inequality. School closures forced millions of students into online learning, yet those without internet access or digital devices were left behind, violating their right to education (UNICEF, 2020). Similarly, access to public services, welfare registration, healthcare appointments, and employment opportunities moved online, widening the gap between digitally connected and excluded populations.

4.2.3.3 Strategies for Digital Inclusion and SDGs

Bridging the digital divide requires comprehensive digital inclusion strategies that align with the SDGs. Key strategies include:

1. **Affordable Internet Access:** Reducing data costs and providing subsidized internet plans for low-income households.

2. **Digital Infrastructure Development:** Expanding broadband networks in rural and remote areas.

3. **Digital Literacy Programs:** Training individuals in basic and advanced digital skills to enhance employment and participation.

4. **Inclusive Policy and Regulation:** Ensuring digital policies promote equity, accessibility, and data protection.

5. **Local Language Content:** Developing online resources in regional and minority languages to improve accessibility.

6. **Gender-Inclusive Digital Policies:** Encouraging women's participation in digital spaces through targeted training and safety measures.

Government programs such as Digital India, BharatNet, and UNESCO's Global Alliance for ICT and Development are initiatives aimed at enhancing digital inclusion. However, sustained political will, global cooperation, and ethical governance are essential to ensure meaningful digital participation for all.

The Persistent Digital Divide

More than 2.6 billion people worldwide remain offline today, mostly in Africa and South Asia. The digital divide is not just about internet access but also about opportunity - those without connectivity are excluded from education, healthcare, and employment. Bridging this gap has become central to achieving the UN Sustainable Development Goals.

4.2.4 Cyberbullying and Online Harassment

Cyberbullying and online harassment are contemporary forms of human rights violations that have emerged with the widespread use of social media, instant messaging, and online forums. Unlike traditional harassment, digital platforms allow perpetrators to operate anonymously, reach a wide audience, and leave permanent traces of harmful content, significantly increasing the impact on victims. These violations compromise personal dignity, mental health, and security, making them a pressing concern in the digital age (Patchin & Hinduja, 2020).

4.2.4.1 Definition and Forms

Cyberbullying refers to the deliberate use of digital technology to harass, threaten, or humiliate an individual. Online harassment encompasses a broader spectrum of harmful behaviours, including intimidation, discrimination, and coercion conducted via digital platforms. Common forms include:

- ► **Stalking and Doxxing:** Tracking an individual's activities online and publishing sensitive personal information without consent.

- ► **Hate Speech and Discrimination:** Offensive content targeting race, religion, gender, sexual orientation, or disability.

- ► **Impersonation and Fake Profiles:** Creating false accounts to defame or manipulate victims.

- ► **Sextortion and Sexual Harassment:** Coercion using private images, videos, or sexual content.

- ► **Harassment and Threats:** Repeated hostile messages or threats of physical harm (Livingstone et al., 2018).

These forms of abuse disproportionately affect women, children, adolescents, LGBTQ+ individuals, and marginalized communities.

4.2.4.2 Impact on Mental Health and Dignity

The psychological consequences of cyberbullying are profound. Victims often experience depression, anxiety, social isolation, and, in severe cases, suicidal ideation. Emotional abuse online undermines the right to dignity, while exposure of personal information without consent violates the right to privacy (Hinduja & Patchin, 2019). The persistent nature of digital content makes it difficult for victims to escape harassment, prolonging emotional distress.

4.2.4.3 Gendered Harassment and Violence Online

Research indicates that women and girls face disproportionate levels of online harassment. Pew Research (2020) found that 41% of women globally reported experiencing online harassment, highlighting the gendered nature of digital abuse. Socio-cultural norms, stereotypes, and systemic inequalities exacerbate online violence against women, restricting their freedom of expression and participation in digital spaces.

4.2.4.4 Legal Remedies and Cyber Safety Mechanisms

Governments, international organizations, and technology platforms have developed legal and policy frameworks to combat cyber harassment:

International Instruments:

▶ UN Guidelines on Freedom of Expression Online (2018) stress state responsibility to prevent online harassment and hate speech.

▶ UN Convention on the Rights of the Child (CRC) ensures protection of children from all forms of abuse, including online (UNICEF, 2019).

National Laws:

▶ India's Information Technology Act (2000, amended 2008) criminalises electronic communication intended to harass or defame.

▶ Sections 354A and other provisions of the Indian Penal Code address sexual harassment and cybercrime.

▶ Other countries enforce GDPR provisions, the UK Online Safety Bill, and U.S. state cyberbullying laws.

Platform-Based Mechanisms:

▶ Social media companies maintain community guidelines prohibiting harassment, threats, and hate speech.

▶ Reporting tools, content moderation, and AI-driven detection systems are increasingly used to prevent abuse.

Prevention strategies against digital rights violations include digital literacy programs, legal awareness campaigns, robust cybersecurity measures, and psychological support services for victims (Livingstone et al., 2018; Hinduja & Patchin, 2019). While cyberbullying and online harassment highlight the personal impact of such violations, the effectiveness of prevention largely depends on the actions of states and corporations. The following section examines these broader responsibilities in safeguarding digital rights.

❐ Prevention and State Responsibility in Safeguarding Digital Rights

4.2.5 Emerging Ethical Challenges

Artificial intelligence, algorithms, and automated decision-making systems present complex ethical and human rights challenges. Key concerns include:

▶ **Algorithmic Bias:** AI systems can replicate societal prejudices, leading to discriminatory outcomes in hiring, lending, law enforcement, and healthcare (Buolamwini & Gebru, 2018).

▶ **Surveillance and Autonomy:** Corporations and governments can collect and analyze personal data at scale, potentially undermining privacy, freedom, and self-determination.

▶ **Deepfakes and Synthetic Media:** Manipulated videos, audio, or images can harm reputation, spread misinformation, and compromise security.

▶ **Cross-Border Threats:** Cyber violations often transcend national boundaries, creating enforcement and accountability challenges.

Mitigating these risks requires ethical frameworks and corporate accountability. Transparency in algorithm design, independent audits, informed consent for data collection, and strong grievance mechanisms are essential to protect rights in the digital age (Floridi et al., 2018).

4.2.6 State and Corporate Responsibilities

The rise of digital technologies has created new responsibilities for both governments and corporations. They now play a crucial role in ensuring that innovation respects fundamental human rights such as privacy, security, equality, and freedom of expression. Digital spaces, ranging from social media to AI systems and cross-border data platforms, are complex and fast-evolving. This reality demands coordinated governance, strong ethical oversight, and effective regulatory frameworks (UN Human Rights Council, 2018).

4.2.6.1 Human Rights Obligations of States

States have a primary duty to protect, respect, and fulfil human rights in both physical and digital spheres. This includes preventing violations by private actors, providing remedies to victims, and implementing laws that promote digital inclusion and security.

Key obligations include:

▶ **Regulation of Digital Platforms:** Ensuring social media and online services operate in compliance with laws that prevent harassment, hate speech, and data exploitation.

▶ **Data Protection and Privacy:** Safeguarding citizens' personal and sensitive information through robust legal frameworks, such as India's Information Technology Act (2000, amended 2008) and the Aadhaar Act (2016) (Supreme Court of India, 2018).

▶ **Cyber security Measures:** Developing national strategies to prevent unauthorized access, hacking, and identity theft while maintaining transparency and accountability.

▶ **Digital Inclusion:** Bridging the digital divide through access to infrastructure, affordable internet, and digital literacy initiatives (ITU, 2021).

The United Nations emphasizes that states must ensure that human rights offline are equally protected online, including the right to privacy, freedom of expression, and protection against discrimination (UNHRC, 2018).

4.2.6.2 Big Tech Regulation Debates

The growing power of global tech corporations has sparked debates about their accountability in protecting digital hu-

man rights. These companies collect and profit from massive amounts of personal data. Their practices often fuel concerns about surveillance capitalism, targeted advertising, and behavioural manipulation.

Regulatory challenges include:

▶ **Jurisdictional Complexity:** Corporations often operate across borders, making national enforcement difficult.

▶ **Data Privacy Concerns:** Use of personal and biometric data without informed consent violates privacy and autonomy (Zuboff, 2019).

▶ **Content Moderation and Censorship:** Balancing freedom of expression with the need to curb hate speech, misinformation, and harassment.

▶ **Algorithmic Transparency:** AI-driven systems may perpetuate bias, discrimination, and opaque decision-making, affecting marginalized populations disproportionately.

Several regulatory efforts are ongoing globally, including the European Union's General Data Protection Regulation (GDPR), the UK Online Safety Bill, and debates in the U.S. regarding Section 230 of the Communications Decency Act. These measures aim to hold tech platforms accountable while protecting users' rights.

Europe Fines Big Tech

The European Union's General Data Protection Regulation (GDPR) has transformed global data governance. In 2023, Meta (Facebook's parent company) was fined €1.2 billion for violating privacy rules - the largest fine in history. The case demonstrated that strong privacy laws can hold even the world's most powerful corporations accountable.

4.2.6.3 Human Rights Implications

State and corporate responsibilities in digital spaces directly impact the following rights:

▶ **Right to Privacy:** Protecting citizens from unauthorized surveillance and data exploitation.

▶ **Right to Equality:** Preventing algorithmic discrimination and ensuring fair access to digital services.

▶ **Freedom of Expression:** Balancing content moderation with access to information.

▶ **Right to Security and Dignity:** Mitigating harms from cyber harassment, misinformation, and AI-driven interventions.

A collaborative approach that combines state regulation, corporate accountability, civil society advocacy, and public awareness is essential to safeguard human rights in the evolving digital landscape.

Summarised Overview

This unit provides a comprehensive understanding of human rights in the digital era, where technology permeates every aspect of life. It begins by defining digital rights as extensions of universal human rights in online spaces and highlights the major threats to them. The section on data breaches and identity theft explains how unauthorised access to personal data undermines privacy and security. It discusses landmark cases such as the Cambridge Analytica scandal, the Aadhaar privacy case, and the Equifax breach, which exposed millions of users to exploitation and manipulation.

Next, the digital divide is examined as a barrier to equality and inclusion, illustrating how socio-economic, gender, and rural–urban disparities limit access to the internet and digital literacy. Case examples like India's Internet Saathi programme demonstrate how digital inclusion can empower marginalized groups. The section on cyberbullying and online harassment explores the psychological and social consequences of digital abuse, particularly for women, children, and minorities. It reviews legal remedies such as India's Information Technology Act (2000) and international efforts under the UN Guidelines on Freedom of Expression Online (2018). Finally, the unit discusses state and corporate responsibilities, highlighting the need for data protection, algorithmic transparency, and accountability in artificial intelligence and digital governance. By linking ethics, law, and technology, the unit encourages learners to think critically about protecting human rights in an increasingly digital world.

Self-Assessment

1. Define digital human rights and explain how they extend the principles of traditional human rights.

2. What are data breaches, and why do they constitute violations of the right to privacy?

3. Discuss the concept of surveillance capitalism and its implications for personal freedom.

4. Explain the digital divide and how it affects social and economic inclusion.

5. Identify key international and national frameworks that address online harassment and cyberbullying.

6. Discuss the responsibilities of states and corporations in ensuring digital security and privacy.

7. What are the ethical challenges posed by artificial intelligence and algorithmic decision-making?

8. Evaluate any one case study (e.g., Cambridge Analytica, Aadhaar, or GDPR fines) and discuss its human rights implications.

Assignments

1. Discuss how digital technologies have transformed the understanding and protection of human rights in the 21st century.

2. Examine one major data breach or digital rights violation (such as Cambridge Analytica or Aadhaar) and assess its human rights impact.

3. Evaluate the effectiveness of India's Information Technology Act (2000, amended 2008) in addressing cyberbullying and data privacy.

4. Write short notes on any two of the following:

   a) Digital Divide and Inclusion

   b) Surveillance Capitalism

   c) AI and Human Rights

Reference

1. European Union. (2018). *General Data Protection Regulation (GDPR).* Official Journal of the European Union.

2. Floridi, L., Cowls, J., Beltrametti, M., Chatila, R., Chazerand, P., Dignum, V., & Vayena, E. (2018). *AI4People—An ethical framework for a good AI society. Minds and Machines, 28*(4), 689–707.

3. Hildebrandt, M. (2015). *Smart Technologies and the End(s) of Law: Novel Entanglements of Law and Technology.* Edward Elgar Publishing.

4. Isaak, J., & Hanna, M. J. (2018). *User data privacy: Facebook, Cambridge Analytica, and privacy protection. Computer, 51*(8), 56–59.

5. International Telecommunication Union (ITU). (2020). *Global Cybersecurity Index.*

6. Khera, R. (2019). *Dissent on Aadhaar: Big Data Meets Big Brother. Economic and Political Weekly, 54*(6), 35–45.

7. UN Human Rights Council. (2018). *The Promotion, Protection and Enjoyment of Human Rights on the Internet (A/HRC/38/L.10).*

8. Zuboff, S. (2019). *The Age of Surveillance Capitalism.* PublicAffairs.

Suggested Reading

1. Hartzog, W., & Solove, D. J. (2022). *Breached!: Why Data Security Law Fails and How to Improve It.* Oxford University Press.

2. Warschauer, M. (2003). *Technology and Social Inclusion: Rethinking the Digital Divide.* MIT Press.

3. Hinduja, S., & Patchin, J. W. (2019). *Bullying Beyond the Schoolyard: Preventing and Responding to Cyberbullying.* Corwin Press.

4. Sanders, C. K. (2021). *The Digital Divide is a Human Rights Issue. Journal of Human Rights and Social Work, 6*(1), 1–10.

5. Solove, D. J. (2004). *The Digital Person: Technology and Privacy in the Information Age.* NYU Press.

6. Leigh, D., & Harding, L. (2011). *WikiLeaks: Inside Julian Assange's War on Secrecy.* Guardian Books.

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

Individual versus the State

Learning Outcomes

By the end of this unit, learners will be able to:

▶ explain the complex relationship between the individual and the state in the context of human rights.

▶ discuss the principles and legal frameworks governing privacy, surveillance, and freedom of expression.

▶ analyse how censorship, discrimination, and inequality emerge from state power and institutional structures.

▶ evaluate key judicial decisions, international conventions, and national laws that protect individual rights.

▶ reflect on the ethical balance between national security, liberty, and democratic accountability in contemporary governance.

Background

The relationship between the individual and the state lies at the core of human rights discourse. Modern democracies are built on the idea that state authority must exist to protect, not suppress, individual liberty and dignity. However, technological advancement, national security concerns, and political power have often led to tensions between personal freedom and collective control. In the twenty-first century, digital governance, mass surveillance, and algorithmic control have expanded the state's reach into private life. At the same time, citizens increasingly use digital tools to express dissent, demand transparency, and hold governments accountable. This unit explores how privacy, censorship, and discrimination shape the interaction between individuals and state institutions, highlighting both legal safeguards and emerging challenges.

Privacy, Surveillance, Freedom of Expression, Censorship, National Security, Digital Rights, Discrimination, Structural Inequality, Civil Disobedience, State Accountability

Discussion

4.3.1 Introduction

The relationship between the individual and the state lies at the heart of modern human rights discourse. As states exercise authority to ensure security, order, and development, individuals seek to safeguard their personal freedoms, dignity, and autonomy. This delicate balance between power and liberty becomes particularly significant in the context of privacy, surveillance, freedom of expression, and equality. With the rise of digital governance, mass communication, and global interconnectedness, the boundaries between legitimate state control and individual rights have become increasingly blurred. States often justify surveillance, censorship, or restrictive laws in the name of national security or public morality. Yet, these actions can easily infringe upon fundamental freedoms when unchecked by legal and ethical safeguards.

This unit examines how the state's authority interacts with, and often conflicts with, individual rights, particularly in the domains of privacy and surveillance, censorship and freedom of expression, and discrimination and inequality. It emphasises the importance of constitutional protections, judicial oversight, and civic resistance in maintaining democratic accountability and ensuring that state power serves, rather than suppresses, the rights of citizens.

The Roots of the Social Contract

The idea that individuals consent to be governed, in exchange for protection of their rights, originates in the social contract theories of Hobbes, Locke, and Rousseau. These 17th- and 18th-century thinkers shaped the foundation of modern democracies, emphasizing that legitimate state power must always serve the liberty and dignity of its citizens.

4.3.2 Privacy and Surveillance

4.3.2.1 Meaning and Importance of Privacy

Privacy is one of the foundational principles of human freedom and dignity. It refers to the right of individuals to control the collection, use, and dissemination of their personal information and to make autonomous decisions about their private lives without interference. The Universal Declaration of Human Rights (1948, Article 12) and the International Covenant on Civil and Political Rights (1966, Article 17) both affirm that no one shall be subjected to arbitrary interference with privacy, family, home, or correspondence.

In a modern digital society, privacy extends beyond physical boundaries; it now includes digital footprints such as emails, biometric data, location tracking, and online activity. The right to privacy safeguards individuals from unwarranted intrusion by both the state and private corporations. It ensures personal security, fosters freedom of expression and association, and protects individuals from discrimination or profiling. As digital technologies become integral to governance and daily life, privacy protection has emerged as a cornerstone of democratic accountability and ethical governance (Solove, 2006).

4.3.2.2 State Surveillance Systems

State surveillance refers to the monitoring, collection, and analysis of citizens' information by government agencies for purposes such as national security, law enforcement, or public administration. While surveillance is often justified as essential for public safety, its scope and methods have expanded significantly with technological advancement.

Common forms of surveillance include:

▶ **Closed-Circuit Television (CCTV) Monitoring:** Used in public spaces for security and crime prevention, but often criticised for potential misuse and constant tracking of movement.

▶ **Internet and Digital Monitoring:** This involves tracking emails, social media activity, browsing data, and communications metadata through software or network surveillance.

▶ **Biometric Identification Systems,** such as fingerprint, facial recognition, or iris scans, are used in large-scale identity databases (e.g., India's Aadhaar).

□ Privacy Definition

□ The Right to Privacy in the Digital Age

- ▶ **Mass Data Collection and Interception Programs:** Global initiatives like the U.S. PRISM program revealed extensive government access to private communications, sparking global debates on surveillance ethics and legality.

While surveillance may serve legitimate public purposes, it also raises serious human rights concerns. Unchecked monitoring can lead to profiling, discrimination, and suppression of dissent. For instance, concerns over Aadhaar data usage in India highlight the tension between efficient governance and the risk of privacy invasion (Khera, 2019).

4.3.2.3 Laws and Legal Safeguards on Privacy

The growing scope of surveillance and data collection has prompted national and international frameworks to define and protect the right to privacy.

1. International Legal Frameworks

- ▶ **ICCPR (1966), Article 17:** Affirms that no one shall face arbitrary or unlawful interference with their privacy, family, or correspondence, and obliges states to provide legal protection against such interference.

- ▶ **UN Guidelines on Privacy in the Digital Age (2013):** Emphasise that surveillance practices must meet the tests of legality, necessity, and proportionality, and that states must ensure oversight and accountability.

2. Regional and National Laws

- ▶ **European Union – General Data Protection Regulation (GDPR):** Enforced since 2018, the GDPR is considered the world's most comprehensive data protection framework. It gives individuals control over their personal data, mandates data minimisation, and imposes heavy penalties on organisations that misuse information (European Union, 2018).

- ▶ **India – Justice K.S. Puttaswamy (Retd.) vs. Union of India (2017):** The Supreme Court of India recognised the right to privacy as a fundamental right under Article 21 of the Constitution. The Court held that privacy is intrinsic to life and liberty, forming the foundation of all other freedoms, including freedom of thought and expression. This ruling has since influenced the framing of India's data protection policies.

These legal instruments collectively underscore that privacy

protection must not be an afterthought but a guiding principle in both governance and digital innovation.

4.3.2.4 The Security vs. Privacy Debate

One of the central ethical and legal dilemmas in modern democracies is the balance between national security and individual privacy. Governments argue that surveillance systems are necessary to combat terrorism, cybercrime, and other threats to public order. Supporters claim that data collection enables the early detection of criminal activities, facilitates disaster management, and promotes efficient service delivery. However, critics caution that such justifications often pave the way for mass surveillance, where entire populations are monitored without reasonable cause or consent. Excessive state control risks turning democratic states into surveillance states, undermining trust, transparency, and accountability. Edward Snowden's 2013 revelations about the U.S. National Security Agency (NSA) surveillance programs demonstrated how easily surveillance mechanisms can be used to infringe on privacy at a global scale.

- ❏ The Ethical Dilemma of Surveillance and Privacy

In India, the debate around Aadhaar and digital surveillance has raised similar questions about the limits of state power. While security is an essential function of the state, it must operate within constitutional boundaries that uphold privacy, proportionality, and the principle of necessity. As scholars such as Shoshana Zuboff (2019) argue, modern societies must resist both state and corporate surveillance, where personal data becomes a tool of manipulation and control. The challenge, therefore, lies in creating a governance system that ensures both security and freedom, where technology empowers citizens rather than monitors them.

- ❏ Aadhaar, Surveillance, and the Limits of State Power in India

The Snowden Revelations

In 2013, Edward Snowden, a U.S. intelligence contractor, exposed the National Security Agency's (NSA) secret surveillance programs, revealing how billions of private communications were being tracked globally. His disclosures ignited international debates on privacy, ethics, and the limits of state power, and led to reforms in several surveillance laws.

Security or Liberty?

Would you trade privacy for safety? After the 9/11 attacks, many democratic governments expanded surveillance in the name of national security. However, studies show that

once citizens accept such monitoring, governments rarely roll it back. The ongoing challenge is ensuring that the fight against terrorism does not turn democracies into surveillance states.

4.3.3 Censorship and Freedom of Expression

4.3.3.1 Meaning and Legal Basis of Freedom of Speech

Freedom of expression is one of the most vital pillars of democratic governance. It enables individuals to express their opinions, exchange ideas, access information, and participate meaningfully in political and cultural life. The Universal Declaration of Human Rights (UDHR, 1948, Article 19) and the International Covenant on Civil and Political Rights (ICCPR, 1966, Article 19) both recognise this freedom as a fundamental human right. These international frameworks affirm that everyone has the right to hold opinions without interference and to seek, receive, and impart information and ideas through any media, regardless of frontiers.

❒ Freedom of Expression as a Cornerstone of Democracy and Human Rights

At the national level, constitutions in democratic societies enshrine similar guarantees. In India, Article 19(1)(a) of the Constitution guarantees the right to freedom of speech and expression, while Article 19(2) allows the state to impose "reasonable restrictions" in the interest of public order, national security, morality, or defamation. This delicate balance between liberty and responsibility ensures that free expression operates within the broader framework of social harmony and constitutional order. In the digital era, the scope of free speech has expanded to include online communication, social media discourse, and citizen journalism. Yet, this expansion has also intensified debates about hate speech, misinformation, and the limits of acceptable expression in cyberspace.

❒ National Safeguards and Contemporary Challenges to Freedom of Expression in the Digital Age

4.3.3.2 State Censorship Mechanisms

Censorship refers to the deliberate suppression or control of information, ideas, or artistic expressions by state authorities, institutions, or even private actors. Governments often justify censorship as necessary to maintain national security, prevent violence, or protect public morality. However, excessive or politically motivated censorship can erode democratic freedoms and silence dissenting voices.

Common forms of censorship include:

- ▶ **State-Imposed Restrictions:** Governments may block access to websites, social media platforms, or news portals deemed harmful or subversive.

- ▶ **Media Regulation:** State-controlled licensing and press restrictions can limit independent journalism and investigative reporting.

- ▶ **Internet Shutdowns:** Temporary or prolonged suspension of internet services, often in response to protests, elections, or conflicts.

- ▶ **Self-Censorship:** Journalists, artists, and citizens may refrain from expressing controversial views due to fear of legal repercussions, social backlash, or harassment.

❏ Censorship, Platform Moderation, and the Evolving Boundaries of Free Speech

In authoritarian regimes, censorship is often employed as a tool of political control, whereas in democratic states, it sometimes arises from overly broad interpretations of security laws. The rapid rise of digital platform moderation, in which corporations like Meta (Facebook), X (Twitter), and YouTube regulate content under community guidelines, adds a new layer to the debate, blurring the line between legitimate regulation and suppression of free speech.

Inside the Great Firewall

China's "Great Firewall" blocks more than 10,000 international websites, including Google, Wikipedia, and Facebook. Domestic platforms like Weibo and WeChat operate under close state monitoring. This vast censorship system demonstrates how governments can control digital discourse and shape public opinion on a national scale.

4.3.3.3 National Security vs Freedom of Expression

The tension between national security and freedom of expression lies at the heart of contemporary governance challenges. States argue that restrictions on speech are necessary to prevent hate propaganda, terrorism, and threats to sovereignty. However, critics warn that vague definitions of "security" or "public order" can be weaponised to stifle criticism, marginalise opposition, or control narratives.

❏ Security vs. Expression

International human rights law allows limited restrictions on freedom of expression, provided they meet the tests of legality, necessity, and proportionality. According to the UN Human Rights Committee (2011), any limitation must be clearly de-

fined by law, pursue a legitimate aim, and be strictly necessary in a democratic society. In practice, however, governments often resort to blanket measures, such as internet shutdowns, sedition laws, or media blackouts, raising questions about the misuse of power.

In India, laws such as the Information Technology Act (2000) and the Unlawful Activities (Prevention) Act (1967) have been invoked to curb online speech deemed anti-national or inflammatory. While national security is a legitimate concern, the absence of clear judicial oversight in many cases has led to arbitrary censorship, affecting journalists, activists, and ordinary citizens alike (Human Rights Watch, 2022).

4.3.3.4 Media Control, Internet Shutdowns, and Propaganda

Modern censorship extends beyond the traditional control of print and broadcast media to encompass digital communication, social networking, and algorithmic visibility. Governments increasingly use internet shutdowns, content filtering, and data localisation requirements as mechanisms of control. For instance, India has recorded some of the highest numbers of internet shutdowns globally, particularly in regions like Jammu and Kashmir. Authorities justify these shutdowns as necessary to prevent misinformation and maintain order, yet critics argue they disproportionately restrict access to education, healthcare, and economic activity.

In China, the "Great Firewall" represents one of the world's most sophisticated censorship systems, blocking foreign websites and filtering politically sensitive content. Similarly, Turkey has repeatedly blocked social media platforms such as Twitter and YouTube in response to political dissent or anti-government protests. Beyond state actions, propaganda and disinformation campaigns have emerged as powerful tools to shape public opinion. Governments and interest groups use social media algorithms and paid influencers to manipulate narratives, undermining trust in independent journalism. The fusion of state power and corporate influence in digital spaces has created what Zuboff (2019) calls "surveillance capitalism," where information control and behavioural manipulation reinforce existing hierarchies of power. .

4.3.3.5 Case Examples from India and the World

1. **India – Internet Shutdowns (2019–2023):** The frequent suspension of internet services, particularly in Kashmir

and north-eastern states, has raised constitutional concerns regarding proportionality and necessity. The Supreme Court of India (Anuradha Bhasin v. Union of India, 2020) ruled that indefinite internet shutdowns violate the right to freedom of expression and must be subject to judicial review.

2. **Turkey – Media Crackdowns:** Under national security pretexts, the government has arrested journalists, shut down news outlets, and censored political content online.

3. **United States – Disinformation and Platform Censorship:** The debates surrounding misinformation, political bias, and "cancel culture" highlight the challenges of regulating online expression in democratic societies.

Freedom of expression remains both a fundamental right and a contested space in the digital era. While states have legitimate interests in maintaining security and social harmony, censorship must never be used as a tool of oppression. The challenge lies in striking a careful balance, protecting societies from harm while ensuring that citizens retain the freedom to question, critique, and innovate. Judicial oversight, transparent regulation, and strong media ethics are crucial to preserving this balance in both national and global contexts.

4.3.4 Discrimination and Inequality

4.3.4.1 State Discrimination Based on Race, Caste, Religion, and Gender

Discrimination and inequality often persist not only in society but also within the very institutions designed to protect justice and equality. States may consciously or unconsciously reinforce discrimination through laws, public policies, and administrative practices. This form of state-linked discrimination manifests when legal frameworks or governance systems privilege certain groups over others based on race, caste, religion, gender, ethnicity, or socio-economic status.

In many societies, race-based discrimination remains a critical issue. For instance, racial profiling in law enforcement practices in the United States has led to disproportionate targeting of African American and Latino communities. Similarly, caste-based exclusion continues to shape access to education, employment, and political representation in parts of India, despite constitutional prohibitions.

❏ Balancing Freedom

❏ Institutional Bias

❏ Social Exclusion

Religious discrimination has also emerged as a global concern, with laws and policies in several countries restricting the rights of minorities under the pretext of national security or cultural preservation. Gender-based inequality, too, remains systemic, with women and gender minorities facing barriers to equal pay, political participation, and safety in both public and digital spaces. Such structural disparities illustrate how discrimination operates at multiple levels - legal, economic, and social - thereby reproducing inequality across generations.

4.3.4.2 Structural Violence and Institutionalised Inequality

Structural violence refers to the social, economic, and political systems that perpetuate harm or disadvantage to certain groups without direct physical force. These institutional arrangements, embedded in education, law enforcement, healthcare, and governance, create barriers to equality and dignity. For example, biased policing practices, discriminatory curricula, and unequal access to healthcare reflect institutional discrimination. Marginalized communities, such as Dalits in India or Indigenous peoples in Latin America, often experience compounded disadvantages through both overt and covert exclusionary mechanisms. In digital spaces, technological inequality deepens these divides. Limited internet access, poor digital literacy, and algorithmic bias exclude rural populations, women, and low-income groups from participating fully in the digital economy.

This digital inequality has become more visible in the post-pandemic world, where online platforms determine access to education, governance, and employment. Without deliberate state intervention, technology risks reinforcing pre-existing social hierarchies instead of dismantling them.

4.3.4.3 Human Rights Violations through Exclusionary Laws and Policing

Exclusionary laws and practices undermine the foundational human rights principle of equality enshrined in Article 1 of the Universal Declaration of Human Rights (UDHR), which states that all human beings are born free and equal in dignity and rights. When laws are applied unevenly or crafted to privilege dominant groups, the state itself becomes complicit in rights violations. Examples include discriminatory citizenship laws, restrictive voting regulations, or policing strategies that disproportionately affect minorities. In the United States,

❐ Systemic Inequality

❐ Structural Violence

❐ Digital Inequality

❐ State Complicity

racial profiling by police has sparked nationwide protests under movements like Black Lives Matter.

In India, unequal access to justice and welfare services often mirrors caste, gender, and regional hierarchies. Similarly, in Middle Eastern and African countries, gender-discriminatory laws continue to restrict women's rights to inheritance, movement, and representation. These patterns reveal that inequality is not only a social problem but a political and legal one. Without equitable state policies and transparent law enforcement, systemic discrimination perpetuates marginalization and erodes faith in democratic institutions.

<div style="float:left">❑ Systemic Inequality</div>

4.3.4.4 Role of Social Movements in Resisting Discrimination

Throughout history, social movements have played a decisive role in challenging institutionalized inequality and demanding accountability from the state. Movements such as the Civil Rights Movement in the United States, the Anti-Apartheid struggle in South Africa, and Dalit rights movements in India have redefined public consciousness and influenced legal reform. In the digital era, movements like #MeToo, Black Lives Matter, and #FridaysForFuture demonstrate how online platforms can amplify marginalized voices and mobilize collective action against injustice. Social movements not only challenge discriminatory laws but also reshape cultural narratives about equality and dignity. They embody the collective assertion that human rights are not granted by the state but claimed and defended by citizens through continuous struggle.

<div style="float:left">❑ Social Movements</div>

#MeToo: A Global Digital Movement

The #MeToo movement, launched in 2017, spread to over 85 countries, empowering millions of women to share stories of workplace harassment. It led to new legal safeguards and changed public discourse on gender justice, showing how online activism can reshape real-world power structures.

4.3.5 Constitutional and Legal Protections

4.3.5.1 Rights Guaranteed by National Constitutions

National constitutions serve as the primary instruments for ensuring equality and protecting citizens from state dis-

crimination. In India, the Constitution (Articles 14–18) guarantees the right to equality, prohibiting discrimination based on religion, race, caste, sex, or place of birth. Similarly, Article 15 explicitly forbids the state from denying access to public spaces or services on these grounds. Democratic constitutions worldwide echo these commitments. The U.S. Constitution's Fourteenth Amendment upholds equal protection under the law, while South Africa's post-apartheid Constitution (1996) is celebrated for its strong anti-discrimination framework. These provisions ensure that state power is checked by legal guarantees safeguarding individual dignity.

❐ Constitutional Equality

4.3.5.2 Role of Judiciary and Human Rights Commissions

The judiciary plays a crucial role in interpreting and enforcing equality provisions. Courts act as arbiters between citizens and the state, ensuring that laws and administrative actions align with constitutional principles. In India, landmark judgments, such as Navtej Singh Johar v. Union of India (2018) decriminalizing same-sex relations, and Indra Sawhney v. Union of India (1992) upholding reservations for backward classes, illustrate the judiciary's transformative potential in expanding equality. National Human Rights Commissions (NHRCs) and State Human Rights Commissions (SHRCs) further strengthen accountability by investigating violations, recommending policy reforms, and promoting human rights awareness. Their work ensures that victims of discrimination have institutional avenues for redress beyond the courtroom.

❐ Judicial Safeguards

4.3.5.3 International Human Rights Law Protecting Individuals

At the international level, several treaties and conventions prohibit discrimination in all its forms. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1965), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), and the Convention on the Rights of Persons with Disabilities (CRPD, 2006) provide global legal frameworks to hold states accountable. The United Nations Human Rights Council and regional mechanisms such as the European Court of Human Rights and the Inter-American Commission on Human Rights monitor compliance and issue rulings that shape national jurisprudence. Together, these legal instruments reinforce the universality of human rights and emphasize that discrimination, in any form, is incompatible with human dignity.

❐ Global Framework

4.3.6 Citizen Resistance and State Accountability

4.3.6.1 Public Protests and Civil Disobedience

When state institutions fail to uphold equality, citizens often resort to public protests and civil disobedience to demand justice. Peaceful mobilizations such as India's farmers' protests (2020–2021), the Arab Spring movements (2011), and global climate strikes have shown how collective citizen action can challenge discriminatory or unjust state policies. Civil disobedience, rooted in the philosophy of Mahatma Gandhi and Martin Luther King Jr., underscores the moral right of individuals to resist unjust laws.

❐ Civil Resistance

Salt and Civil Disobedience

Mahatma Gandhi's Salt March (1930) was more than a protest against a colonial tax, it symbolised the moral power of nonviolent resistance. The march inspired later civil rights leaders like Martin Luther King Jr. and Nelson Mandela, proving that peaceful defiance can transform the relationship between individuals and the state.

4.3.6.2 Human Rights Activism

Human rights organizations and activists act as watchdogs of democracy, documenting abuses, engaging in litigation, and raising international awareness. Groups like Amnesty International, Human Rights Watch, and grassroots collectives within India have been instrumental in defending marginalized groups against state excesses. Activism also extends to the digital realm, where campaigns expose algorithmic bias, surveillance abuses, and censorship. While activists often face intimidation, arbitrary arrests, or defamation, their work ensures that power remains accountable and that human rights discourse remains alive in public consciousness.

❐ Rights Activism

4.3.6.3 Whistleblowers and the Ethics of Transparency

Whistleblowers play a vital role in exposing hidden injustices within state institutions. Figures such as Edward Snowden and Julian Assange revealed how government surveillance and secrecy can undermine individual privacy and freedom of expression. In India, activists and journalists have exposed corruption and custodial abuse through the Right to Information (RTI) mechanism, embodying the spirit of accountability. While

whistle-blowers often face prosecution or exile, their actions raise critical ethical questions about the balance between state secrecy and public interest. Internationally, efforts to protect whistleblowers, such as the UN Resolution on the Protection of Human Rights Defenders (2015), recognise their indispensable role in strengthening democratic governance.

Summarised Overview

This unit examines the evolving dynamics between individual rights and state authority in the modern world. It begins by discussing privacy and surveillance, explaining how digital technologies enable extensive monitoring that may threaten fundamental freedoms. It then explores censorship and freedom of expression, analysing the limits of speech, media control, and the ethics of regulating online content.

The following section focuses on discrimination and inequality, showing how state structures, institutional biases, and social hierarchies perpetuate injustice despite constitutional guarantees. The unit also highlights the role of social movements, human rights activism, and the judiciary in resisting state overreach and ensuring democratic accountability.

By engaging with real-world examples - such as internet shutdowns, surveillance laws, and equality judgments - the unit encourages critical reflection on the balance between liberty and authority, especially in digital societies.

Self-Assessment

1. What is the significance of privacy as a fundamental human right in democratic societies?

2. How does state surveillance challenge the principles of freedom and autonomy?

3. Explain the legal and ethical limits of censorship in maintaining national security.

4. Discuss how discrimination and inequality can become institutionalised within state systems.

5. Evaluate the role of social movements and judicial interventions in protecting individual rights.

6. How can the state maintain a balance between public safety and personal liberty in the digital era?

Assignments

1. Discuss the significance of the Justice K.S. Puttaswamy case (2017) in recognising privacy as a fundamental right.

2. Explain how the concept of structural violence helps us understand state-linked discrimination.

3. Critically analyse the conflict between national security and freedom of expression in contemporary governance.

4. Discuss the impact of technology on human rights, focusing on the challenges of surveillance capitalism.

5. Examine the role of constitutional safeguards and social movements in resisting state discrimination.

Reference

1. European Union. (2018). *General Data Protection Regulation (GDPR)*. Official Journal of the European Union.

2. Gandhi, M. K. (1993). *Hind Swaraj and other writings* (A. Parel, Ed.). Cambridge University Press. (Original work published 1909)

3. Human Rights Watch. (2022). *World Report 2022*. Human Rights Watch.

4. Khera, R. (2019). Dissent on Aadhaar: Big data meets big brother. *Economic and Political Weekly, 54*(6), 35–45.

5. La Rue, F. (2013). *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/HRC/23/40)*. United Nations Human Rights Council.

6. Lyon, D. (2018). *The culture of surveillance: Watching as a way of life*. Polity Press.

7. Solove, D. J. (2006). *The digital person: Technology and privacy in the information age*. New York University Press.

8. Supreme Court of India. (2017). *Justice K.S. Puttaswamy (Retd.) vs. Union of India*, Writ Petition (Civil) No. 494 of 2012.

9. Zuboff, S. (2019). *The age of surveillance capitalism: The fight for a human future at the new frontier of power*. PublicAffairs.

Suggested Reading

1. Foucault, M. (1977). *Discipline and punish: The birth of the prison* (A. Sheridan, Trans.). Pantheon Books.

2. Lyon, D. (2015). *Surveillance after Snowden.* Polity Press.

3. Solove, D. J. (2008). *Understanding privacy.* Harvard University Press.

4. Warschauer, M. (2003). *Technology and social inclusion: Rethinking the digital divide.* MIT Press.

Space for Learner Engagement for Objective Questions

Learners are encouraged to develop objective questions based on the content in the paragraph as a sign of their comprehension of the content. The Learners may reflect on the recap bullets and relate their understanding with the narrative in order to frame objective questions from the given text. The University expects that 1 - 2 questions are developed for each paragraph. The space given below can be used for listing the questions.

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                                                  Name : …….............

Model Question Paper- set-I

M.A PUBLIC ADMINISTRATION
Semester III - Discipline Specific Elective Course

M23PA02DE: Human Rights

(CBCS - UG)

2024-25 - Admission Onwards

Time: 2 Hours   Max Marks: 45

SECTION A

*Answer any **ten** questions in a word or a sentence. Each question carries **one** mark.*

(10X1 = 10 Marks)

1. What is human dignity?

2. Define inalienability in human rights.

3. What are negative rights?

4. Mention one thinker associated with Natural Rights.

5. State one objective of the Universal Declaration of Human Rights.

6. What is the role of the UN General Assembly in human rights?

7. Define Constitutional Remedies under Article 32.

8. What is Article 21 concerned with?

9. Define the term "refugee".

10. What is meant by climate justice?

11. Name one Third World critic of human rights discourse.

12. What is the meaning of Fundamental Duties?

13. What does displacement mean in a development context?

14. State one purpose of the Sustainable Development Goals (SDGs).

15. What is meant by social justice in the Indian Constitution?

SECTION B

*Answer any **five** questions in two or three sentences. Each question carries **two** marks.*

(5X2 =10 Marks)

16. Explain universality as a characteristic of human rights.

17. Write a short note on the interdependence of rights.

18. Briefly describe Legal Positivism in relation to rights.

19. What are the major features of the ICCPR?

20. Explain the role of the Human Rights Council.

21. What is the significance of the Preamble in promoting human rights values?

22. Briefly explain the concept of Fundamental Duties.

23. What is conflict-induced displacement?

24. How does globalization affect human rights?

25. Explain the relationship between MDGs and human rights.

SECTION C

*Answer any **five** questions in one paragraph. Each question carries **four** marks.*

26. Analyse Utilitarianism as an approach to human rights.

27. Explain the legal and institutional structure of the UN human rights system.

28. Discuss the role of the Preamble, FRs, and DPSPs in protecting human rights in India.

29. Analyse the contribution of the Indian judiciary in expanding environmental and digital rights.

30. Examine the human rights implications of development-induced displacement in India.

31. Explain feminist approaches to human rights and their relevance today.

32. Analyse the major criticisms raised by Third World scholars about global human rights discourse.

33. Describe the intersection of development, environment, and human rights with suitable examples.

SECTION D

*Answer any **three** questions in two pages. Each question carries **ten** marks.*

(3X10 =30 Marks)

34. Trace the evolution of modern human rights with reference to landmark international documents.

35. Critically evaluate Rationalist and Legal Positivist approaches to human rights.

36. Assess the relevance of the UN's human rights mechanisms in addressing contemporary global crises.

37. Discuss the constitutional vision of rights, justice, and equality as reflected in the Preamble and Fundamental Rights.

38. Analyse the human rights implications of climate-induced migration and global environmental changes.

39. Examine the Right to Development and critically assess its implementation challenges at national and global levels.

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Name : ……............

Model Question Paper- set-II

M.A PUBLIC ADMINISTRATION
Semester III - Discipline Specific Elective Course

M23PA02DE: Human Rights

(CBCS - UG)

2024-25 - Admission Onwards

Time: 2 Hours

Max Marks: 45

SECTION A

Answer any ten questions in a word or a sentence. Each question carries one mark.

(10X1 = 10 Marks)

1. Define human rights.

2. What is meant by the universality of human rights?

3. Identify any one characteristic of human rights.

4. What is Natural Rights Theory?

5. Name any one major human rights instrument of the United Nations.

6. What is the significance of the Preamble of the Indian Constitution?

7. Define Fundamental Rights.

8. What is meant by Directive Principles of State Policy (DPSPs)?

9. State any one function of the UN Human Rights Council.

10. What does the term "Right to Development" signify?

11. Define displacement in a human rights context.

12. Who is a refugee according to the 1951 Refugee Convention?

13. What are solidarity rights?

14. Mention one critique raised by Third World scholars regarding human rights.

15. What is meant by climate-induced displacement?

SECTION B

Answer any five questions in two or three sentences. Each question carries two marks.

(5X2 =10 Marks)

16. Explain the inalienability of human rights.

17. Distinguish between civil–political rights and socio-economic rights.

18. Briefly describe Utilitarianism and its view on rights.

19. Write a note on the Universal Declaration of Human Rights (UDHR).

20. What are the core goals of the United Nations concerning human rights?

21. Explain the significance of Fundamental Duties.

22. How does judicial review strengthen human rights protection in India?

23. What are MDGs and how did they approach development?

24. What is the role of OHCHR?

25. Briefly explain climate justice.

SECTION C

Answer any five questions in one paragraph. Each question carries four marks.

(5X4 = 20 Marks)

26. Discuss the evolution of human rights after the adoption of the UDHR.

27. Describe the key features of Natural Rights Theory and its influence on modern human rights.

28. Examine the institutional mechanisms of the UN for promoting human rights.

29. Analyse the relationship between Fundamental Rights and Directive Principles in India.

30. Explain the role of the judiciary in expanding the scope of human rights through landmark judgments.

31. Discuss conflict-induced displacement and its human rights implications.

32. Explain Third World critiques of mainstream human rights discourse.

33. Analyse the concept of the Right to Development with reference to the UN Declaration (1986).

SECTION D

Answer any three questions in two pages. Each question carries ten marks.

(3X10 =30 Marks)

34. Critically examine the historical evolution of human rights from ancient to contemporary times.

35. Compare and contrast Natural Rights Theory, Utilitarianism, and Legal Positivism in understanding human rights.

36. Evaluate the effectiveness of the United Nations in promoting and protecting human rights in the 21st century.

37. Discuss the constitutional safeguards for human rights in India with special reference to Fundamental Rights, DPSPs, and Fundamental Duties.

38. Critically analyse the human rights challenges posed by development-induced, conflict-induced, and climate-induced displacement.

39. Examine India's approach to refugee protection and evaluate the need for a national refugee law.

സർവ്വകലാശാലാഗീതം

വിദ്യയാൽ സ്വതന്ത്രരാകണം
വിശ്വപൗരരായി മാറണം
ഗ്രഹപ്രസാദമായ് വിളങ്ങണം
ഗുരുപ്രകാശമേ നയിക്കണേ

കൂരിരുട്ടിൽ നിന്നു ഞങ്ങളെ
സൂര്യവീഥിയിൽ തെളിക്കണം
സ്നേഹദീപ്തിയായ് വിളങ്ങണം
നീതിവൈജയന്തി പാറണം

ശാസ്ത്രവ്യാപ്തിയെന്നുമേകണം
ജാതിഭേദമാകെ മാറണം
ബോധരശ്മിയിൽ തിളങ്ങുവാൻ
ജ്ഞാനകേന്ദ്രമേ ജ്വലിക്കണേ

കുരീപ്പുഴ ശ്രീകുമാർ

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DON'T LET IT BE TOO LATE

SAY NO TO DRUGS

LOVE YOURSELF AND ALWAYS BE HEALTHY

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Human Rights

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