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HUMAN RIGHTS

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UNIT I: Definition of Human Rights - Meaning - Characteristics - Kinds Nature - Theories of Human Rights.

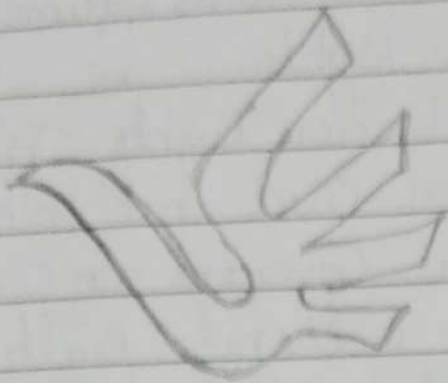
UNIT II: UNO and Human Rights - International Covenant on Civil and Political Rights - International Covenant on Economic, Social and Cultural Rights

UNIT III: Fundamental Rights, Fundamental Duties and The Directive Principles of Indian ~~const~~ Constitution - Role of Government in protecting Human Rights in India - Public Interest Litigation - writs

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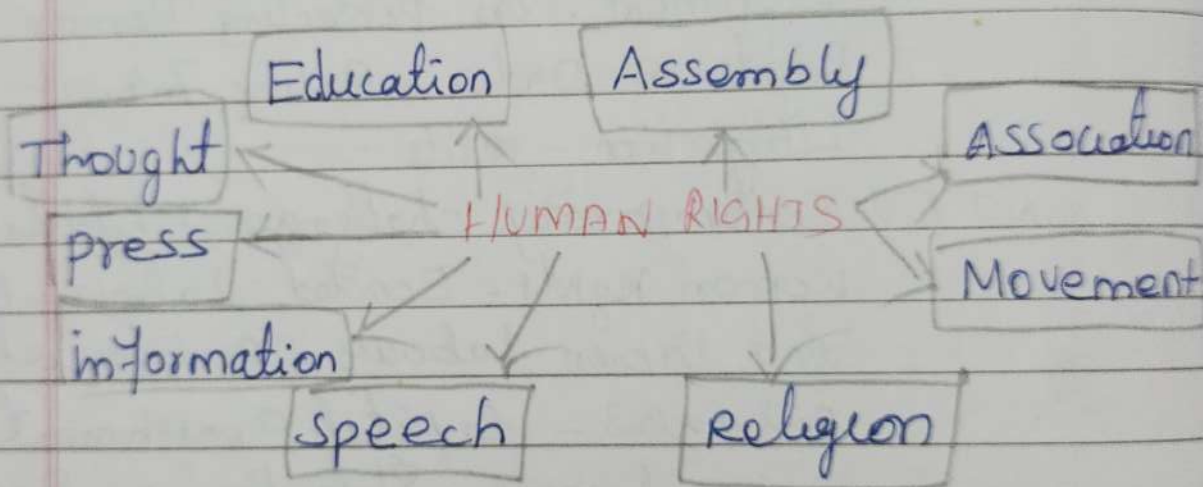
HUMAN RIGHT LOGO



HUMAN RIGHT DAY - December 10

WORLD HUMAN RIGHT DAY - December 10

INTERNATIONAL HUMAN RIGHT DAY - December 10





I Definition of Human Rights - Meaning - Characteristics - kinds of Nature - Theories of Human Rights.

Definition of Human Rights

The study of Human Rights occupies a very important place in the world. In other words Human Rights are of Universal importance. They are no doubt the inherent rights of a man. They are common to all regardless of caste, colour, religion, race etc.

Meaning

Rights are those conditions of social life without which man cannot be as his best or give of his best, or what is needful to the adequate development and expression of his personality.

Various definition of human rights have been given by different scholars

(i) prof Laski : "State is known by the rights that it maintains"

(ii) Bosanquet : "A right is a claim recognised by society and enforced by the state"

(iii) E. Barker : "Rights are the external conditions necessary for the greatest possible development of the capacities of the personality"

Right exist within Society. If there is no Society, there cannot be any rights either. Rights imply duties. Rights are related to certain ends. They are essential to the development of individual personality.

Further rights have a tendency to grow as the older social and political orders give way to new ones the new rights also frequently came into existence.

The above definition clearly vindicate and indicate that there are certain inherent characteristics of rights.

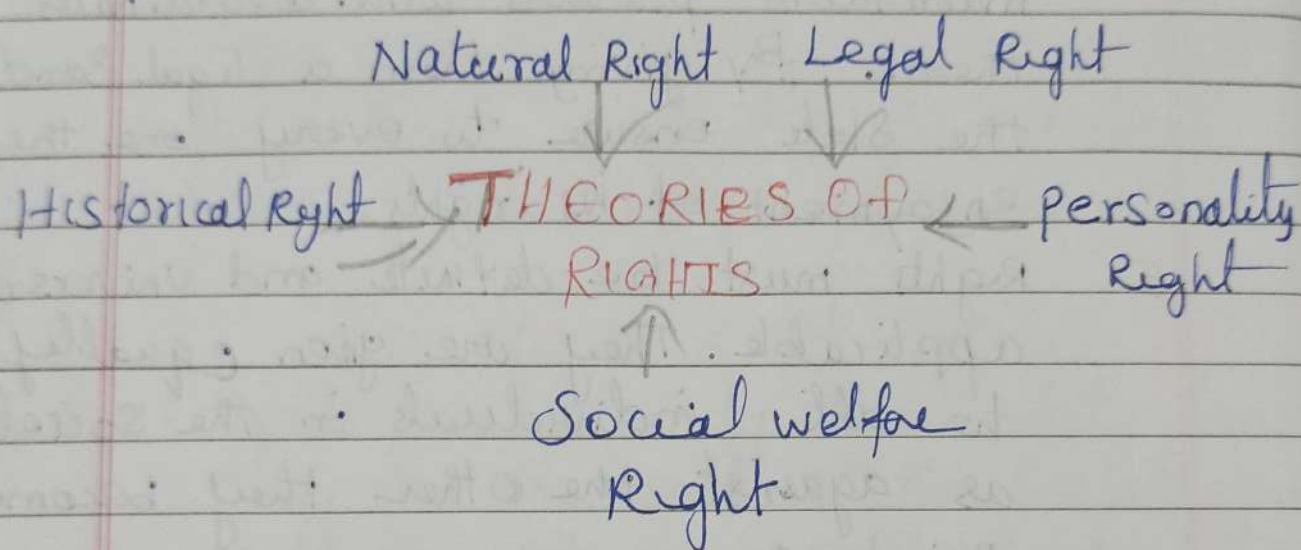
characteristics of Rights

1. Rights arise only in society because they are the result of the society and nature of man. Without society there can be no rights.
2. A claim of an individual is not a right. To become a right, the claim should have the recognition and acceptance of the society as a whole. by its very nature, implies selfishness and it may harm the interests of a person or persons in society. A right, on the other hand, aims at the good of all and it has a moral end to serve.

3. Rights are compatible with the common good. The Society gives recognition to only those rights which are for the welfare of the Society as a whole and which promote some common end or moral good.
4. The State does not create rights though they exist within the State. It simply maintains, protects and co-ordinates them. By giving them a legal sanction the State ensure to every one the enjoyment of his rights.
5. Rights must be definite and universally applicable. They are given equally to all individuals in the Society as against the other they become privileges.
6. Rights and duties are correlated. They are the two sides of a coin and can never be separated. Every side has a corresponding obligation. The rights of an individual become the duties of all the other individuals of Society. A eminent writer expresses the relationship of rights and duties in the following words: "Rights without duties are like men without shadows; They only exist in fairy tales"

Theories of Human Rights

It is very interesting to explore the origin and development of human rights. It could be done clearly with theories of human rights. Various theories of rights we consider the following as important theories.



- (i) The Liberal-individualist Theory of Natural Right
- (ii) The legal Theory of Right
- (iii) The Historical Theory of Right
- (iv) The Idealist or personality Theory of Right
- (v) The Social welfare Theory of Right

I THEORY OF NATURAL RIGHT

1) It is variously interpreted and there is no universal concept of Natural rights, it means the whole universe or the non human part of the Universe. The ideal or the original or average? To use the paradoxical language of Prof Hocking it is natural for human beings to be artificial. Wearing clothes which was artificial at one time is natural today, if natural means the whole process of nature.

2) among the supporters of this theory is no official or complete or generally agreed list of natural right. Some justify slavery as natural. Others condemn it as being unnatural and artificial some assert that by nature men and women are equal. Some hold that men are naturally good others believe that by nature they are wicked. In the light of all this we are inclined to agree with Ritchie's statement. "If you appeal to nature we may not be able to prove you wrong in your own court of appeal, but

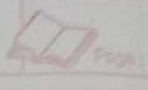


neither can you prove yourself right."

3) so called natural rights conflict with one another. The French Revolution declared liberty equality and fraternity to be the absolute rights of man. But when we begin to apply them we are faced with endless difficulties. In ~~no~~ ~~no~~ no rational system can there be a place for absolute liberty and absolute equality. On the other hand if we start with absolute equality liberty soon vanishes. The theory of natural rights cannot give us a self evident way of reconciling liberty and equality. Has milk dealer for example, the right to empty the cans of milk into the gutters, in order to maintain a high price.

Prof: Hocking points out

My natural right does not tell me what my limits are. The trouble with such rights is that they present us with too many absolutes.



4) the implication of the theory of natural rights is that the State and social institutions in general are artificial and that they have robbed man of certain inherent rights which belonged to him in a State of nature. Right represent according to Laski "The recovery of a lost inheritance. The state is a natural growth. Institutions are not artificial, they are embodiments of ethical ideas".

II The Legal Theory of Right

The central principle of the legal theory of Right is that they completely depend upon the institution and recognition of state. An individual cannot claim rights if those are not recognised by the state.





The rise of the legal theory of right was a logical corollary of the necessity of the recognition and protection of the natural rights of the individual. According to this theory political power is vested in the hands of a determinate authority. They determined by the law of the State granted by the laws of the State and protected by the laws of the State.

III HISTORICAL THEORY OF RIGHT.

Rights as product of Historical Evolution. The exponents of the Historical Theory of Rights say that rights are not created by the State but are the products of historical evolution.

→ Right as Product of Historical Evolution

→ The exponents of the Historical Theory of Right

→ say that rights are not created by the State, but are the product of historical evolution.

→ while in the modern State Right are recognized and upheld by law, in ancient times rights were based on customs and Usages.



V The Social Welfare

• THEORY OF RIGHTS

- The Social Welfare Theory of Rights was popularised by the utilitarians; Bentham and Mill during the later half of the nineteenth century. It came to be accepted because the philosophy of 'individualism' could not provide harmony in society or reconcile harmoniously "self interest" with the "social interest". It thus arose as a protest against the exploitation and dehumanisation of the "social and moral man" and looked at right solely from the point of view of social welfare.
- It pointed out that rights are created by the society and are aimed at realising social welfare.
 - rights are conditions of social welfare, law, customs, usages, traditions and natural right.
 - "Should all yield to what is socially useful or socially desirable".
 - The Theory looks at rights from a highly moral point of view. Right are powers which an individual can claim from



society on a moral plane.

→ they are rooted in the mind or soul of a man.

→ I cannot have rights against the public welfare for that, ultimately is to give me rights against a welfare which is intimately and inseparably associated with my own. Rights as such, are built upon their utility to the individual and Community!



Political, Civil, Social AND ECONOMICS RIGHT

The UDHR is the basic international pronouncement of inalienable and inviolable rights of all members of the human family. The UN General Assembly adopted it on 10 December 1948. The International Covenant on Civil and Political Rights was adopted by the General Assembly in 1966. India ratified it on 19 April 1979 and it came to effect on 1 July 1979. So also the International Covenant on Economic, Social and Cultural Rights was adopted by the General Assembly in 1966. The Covenant came in to force on 3 January 1977. An Optional Protocol to the Covenant on Civil and Political Rights was adopted in 1966 and it came to effect on 23 March 1976.

As we have seen already rights are divided into: civil; political; Economic, social and cultural rights. Each and every individual is enjoying these rights without any discrimination in the name of race, religion, colour, creed, sex or place of birth.



I Civil Rights

Civil Right include right to self determination.

- (i) Right to Live
- (ii) Right to liberty and Security
- (iii) Right to equality
- (iv) Right to privacy
- (v) Right to freedom of thought
- (vi) Conscience and religion
- (vii) Right to freedom

Right to Freedom Expression, peaceful assembly, right to freedom of association, right to marry and Family protection, right to child, right to take part in the conduct of public affairs, right to equality before law and equal protection of the law, prohibition of slavery and slave trade, right to freedom of movement to leave any country and return to his country

II Political Rights

Political rights include right to complete and contest in election

- (i) Right to take part in government
- (ii) Right to criticise government
- (iii) Right to individual petition
- (iv) Right to take part in Administration

Economic social cultural ←

↓
not bending

↓
Agent

↓
Times money

Hands on

Economic
workers →

social
education-literacy →

↓
cultural
participation in
culture.

- housing -

- marriage

↓
copyright

health

Attitudes

Art+drama
music
Food

Beliefs

Faith/Religion

CULTURE

Language

customs

Behaviour

Rituals

III ECONOMIC RIGHTS

Economic rights are right to self determination.

- (i) Right to work
- (ii) Right to just and favourable conditions of work.
- (iii) Right to form and join Trade Union
- (iv) Right to equal wages and remunerations for equal work.

IV Social Rights

- (i) Right to social security
- (ii) Rights relating to motherhood, childhood etc.
- (iii) Right to adequately standard living.
- (iv) Right to physical and mental health.

V Cultural Rights

- (i) Education
- (ii) Right to Science, art, music and culture.
- (iii) Right to Faith/Religion
- (iv) Right to language
- (v) Right to Behaviour
- (vi) Right to Beliefs



The International Covenant on Civil and Political rights. In its Article I provide that all people have the right of self determination.

Article 7 - Provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or Punishment.

Article 8 - provides that no one shall be held in slavery and the slave trade in all forms shall be prohibited.

Article - 9 - Provides that everyone has the right to liberty and Security.

Article - 10 - Provides that even the prisoners are to be treated with humanity

Article - 11. Provides that every one has the right to freedom movement to leave any country and to return to his country

Book Reference:

1) INTERNATIONAL RELATIONS AND HUMAN RIGHTS

- SUDHIR KUMAR

2) HUMAN RIGHTS - N. JAYAPALAN.

UNIT - III

FUNDAMENTAL RIGHTS

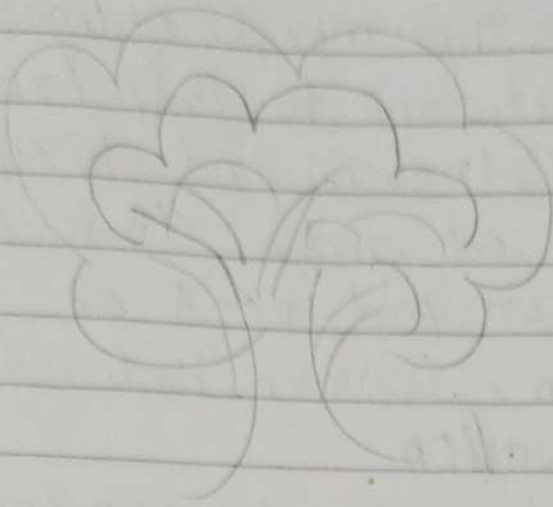
Seven fundamental rights were originally provided by the Constitution.

Fundamental rights are those rights which are essential for intellectual, moral and spiritual development of citizens of India. As these rights are fundamental or essential for existence and all round development of individuals they are called "fundamental rights". These are enshrined in Part III Article 12 to 35 of the Constitution of India.



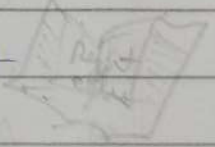
These include individual rights common to most, such as equality before the law, freedom of speech and freedom, freedom of assembly, freedom of religion, right to constitutional remedies for the protection of civil rights by means of writs such as Habeas Corpus, Mandamus, writ of Prohibition, Certiorari and Quo warranta.

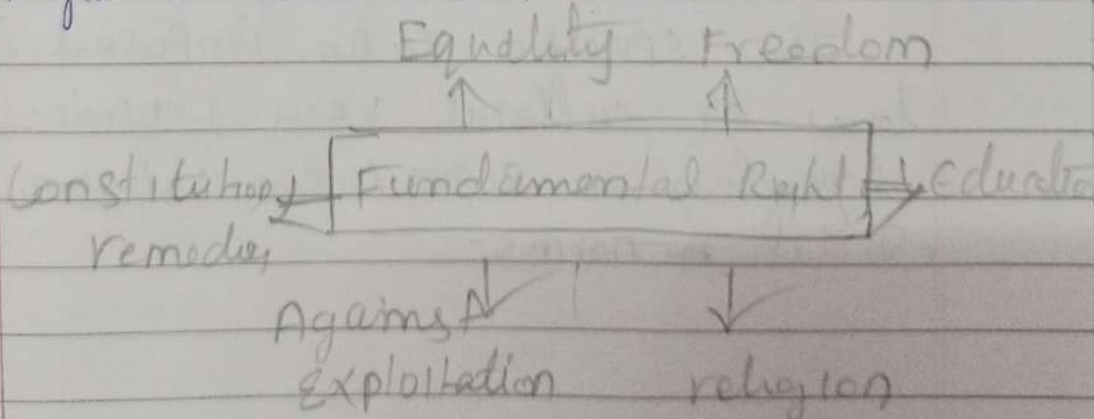
France's Declaration of the Rights of Man. There are six fundamental rights recognised by the Indian Constitution.

The CONSTITUTION IS OUR NATIONAL GOVERNMENT



FUNDAMENTAL RIGHTS

1. Right to equality Article 14-18 
2. Right to Freedom Article 19-22 
3. Right ~~to~~ Against Exploitation Article 23-24
4. Right to Freedom of religion Article 25-28
5. Cultural and Education Right 
6. Right to Constitutional Remedies. Articles 32





2 FUNDAMENTAL DUTIES

The Fundamental duties are defined as the moral obligations of all citizens to help promote a spirit of Patriotism and to uphold the Unity of India. These duties set out in Part IV-A of the Constitution, concern individuals and the Nation.

Duty is a moral commitment to something or some ones whereas responsibility is a condition of being responsible citizen of a country a person has many duties to perform it is his duty to the Constitution 42 Amendment

- 1) AS a result of being a human
- 2) AS a result of one's particular place in life (family, country, job)
- 3) AS a result of one character
- 4) AS a result of one's own moral expectation for oneself

The specific duties imposed by law or cultural vary considerably depending on jurisdiction, religion, and social norms



NATURAL ENVIRONMENT

NATIONAL FLAG

SOVEREIGNTY - DUTIES - FREEDOM STRUGGLE

INTEGRITY

NATIONAL ANTHEM

BROTHERHOOD

PRESERVE COMPOSITE

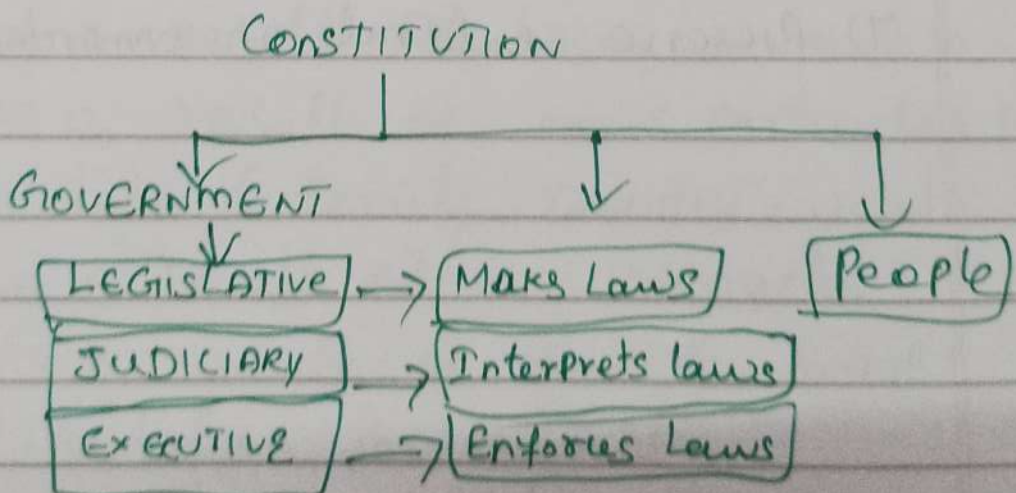
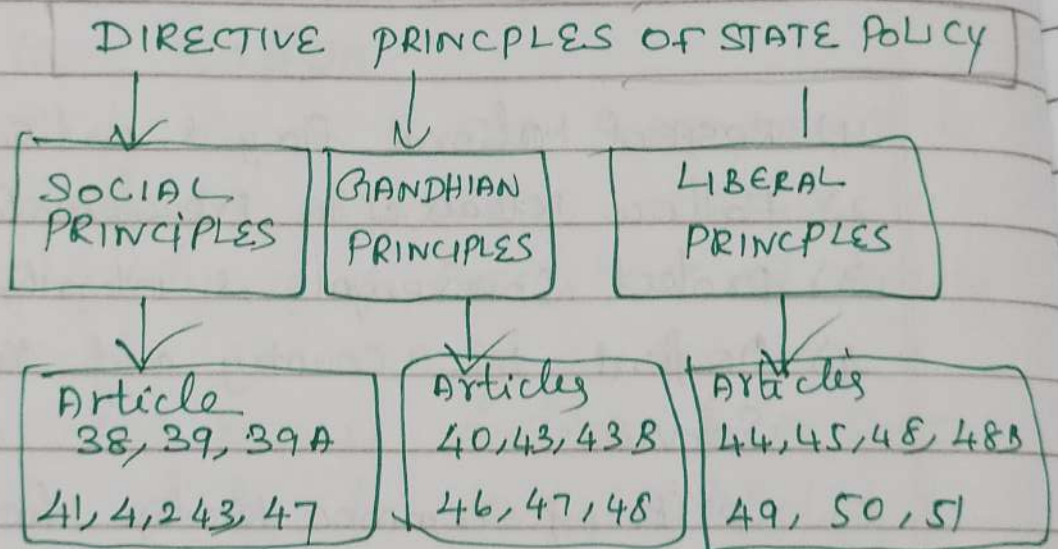
CULTURE

- 1) Respect National flag & National Anthem
- 2) Follow ideals of the Freedom Struggle
- 3) protect Sovereignty & integrity of India
- 4) Defend the Country and render national Services
- 5) spirit of common brother hood
- 6) Preserve Composite culture
- 7) Preserve natural environmental

The Directive principles.

15 principles given to the federal institute governing the state of India, to be kept in citation while framing law and policies.

CLASSIFICATION OF DIRECTIVE PRINCIPLES OF STATE POLICY





Directive principles are classified under the following categories economic and socialistic Political and administrative Justice and legal environmental protection of monuments Peace and Security.

Home Rule movement home the Directive Principles of the Indian Constitution have been greatly influenced by the Directive principle of Social Policy. 'The idea of such policies' can be traced to the Declaration of Independence by the American colonies. The Indian Constitution was also influenced by the United Nations Universal Declaration of human rights.

In 1928 the Nehru Commission Composing of representatives of Indian political parties proposed constitutional reforms for India that apart from calling for dominion status for India and election under Universal suffrage, would guarantee rights deemed fundamental representation for religious and ethnic minorities and limit the power of the government in 1931 the Indian National Congress resolutions committing fundamental rights as well as Socio economic right such as the minimum wage the abolition of untouchability and sex labor.

Both fundamental rights and the Directive principles of State Policy were included into Draft Constitution. 17 Oct 1948 and the final Constitution 26 Nov 1949 prepared by the Committee

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The Role of Government in protecting Human Rights in India:

Having inspired from Constitutional obligation to respect and promote human rights and in compliance of international mandate on human right, the government of India passed specific the protection of Human right Act in 1993 which aims to protect and promote human rights in India.

its Constitutional mandate of Judiciary to protect human rights of the citizen. Supreme Court and High Courts are empowered to take action to enforce these rights Machinery for redress is provided under Article 32 and 226 of the Constitution

Human rights in India is an issue complicated by the Country large size and Population widespread poverty, lack of proper education, as well as its diverse culture despite its status as the sovereign, Secular, democratic republic. The constitution of India provides for fundamental rights which include freedom of religion, freedom of speech, judiciary, freedom of movement, within the country and abroad.



Public Interest Litigation rights.

Litigation undertaken to secure public interest and demonstrates the availability of justice to socially disadvantaged parties and was introduced by Justice P. N. Bhagwati. It is a relaxation on the traditional rule of locus standi. Before 1980 the Judiciary and the Supreme Court of India entertained litigation only from parties affected directly or indirectly by the defendant. It heard and decided cases only under its original and appellate jurisdictions. The Supreme Court began permitting cases on the ground of Public Interest Litigation. Even people who are not directly involved in the case may bring matters of public interest to the court. It is the court's privilege to entertain the application for the PIL.

UNIT IV CONTEMPORARY CHALLENGES

CHILD LABOUR

Child labour refers to the exploitation of children through any form of work that deprives children of their childhood, interferes with their ability to attend regular school, and is mentally, physically, socially or morally harmful. Exploitation is prohibited by legislation worldwide, although these laws do not consider all work by children as child labour. Exception include work by children as artists, family duties, supervised training and some forms of child work practised training and by Amish children as well as by indigenous children in the America.

Causes of the child labour

- 1) Poverty and unemployment levels are high
- 2) Access to compulsory free education is limited
- 3) Existing laws or codes of conduct are often violated
- 4) Laws and enforcement are often inadequate
- 5) Worker's rights are repressed.



A succession of laws on child labour the so called Factory Act, were passed in the UK in the 19th century. Children younger than nine were not allowed to work, age 9-16 could work 12 hours per day the Cotton Mills Act. in 1856, 1901,

Globally the incidence of child labour decreased from 25% to 10% between 1960 and 2003 according to the world Bank. Nevertheless, the total number of child labour remains high with UNICEF and ILO acknowledge an estimated 168 million children aged 5-17 worldwide were involved in child labour in 2013.

WOMEN RIGHTS.

Women right movement in the 19th century and Famine movement during the 20th century. Some countries, these right are institutionalized, or supported by law, local custom and behaviour, whereas, in others they are ignored and suppressed, They different from broader notions of human right through claims of an inherent historical and traditional bias against the right by women and girl, in favour of men and boy.

- 1) Right to equality
- 2) Right to Society
- 3) Right to Political
- 4) Right to Education
- 5) Right to Prosperity
- 6) Right to diverse
- 7) Right to re-marriage
- 8) Right to Employment & Training
- 9) Right to freedom.
- 10) Right to I. N. A.

Bonded Labour

Bonded labour a practice in which employers give high interest loans to workers whose entire families then labour at low wage to pay off the debt the practice is illegal in the United States slavery, thralldom, thral. bondage the state of being under the control of another person.

currently debt bondage is the most common method of enslavement with an estimate 8.1 million people bonded to labour illegally as atted by the international labour organization in 2005. Debt bondage has been described by the United Nation as a form of "modern day slavery" and the Supplementary Convention on the Abolition of



Slavery seeks to abolish the practice.

Rural and Urban labours.

The migration of rural labour to Urban area in China since the 1980' has created the largest labour flow in world history. A commonly cited figure puts the number of rural migrants residing in Urban areas at 50 million in the mid 1990s seemingly Chinese rural people are.

Problem of Refugees

Refugees are often more susceptible to illness for several reason, including a lack of immunity to local strains of malaria and other diseases. Displacement of a people can create favorable conditions for disease transmission. Refugee camps are typically heavily populated with poor sanitary conditions.

causes Refugees

- 1) Global population
- 2) war and civil war
- 3) Human Right Violation
- 4) Environment and climate
- 5) Economics
- 6) Preventing the root causes of migration



CAPITAL PUNISHMENT

Capital punishment also known as death penalty is a government sanctioned practice where by a person is killed by the State as a Punishment for a crime. The sentence that some one be Punished for a crime. The sentence that some one be punished in such a manner is referred to as a death sentence whereas the act of carrying out the sentence is known as an execution. Crimes that are punished by death. are known as capital crimes, capital offense, serious offense such as murder, mass murder aggravated, cases of rapes, child. rape, child sexual abuse, terrorism, treason, espionage -offences against the State such as attempting overthrow government.



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UNIT V

National and States Human Rights Commission.

Each State in India may constitute a body to be called as "State Human Right Commission" to exercise its powers on human rights. The SHRC consists of a chairperson, who has been a chief Justice of a High Court one member ~~who~~ who is has been a Judge of a High Court another member who is has been a district Judge in that State and two other member to be appointed from persons having knowledge of human rights.

Besides the above member there shall be a Secretary who is also the chief Executive Officer of the State Commission. The head quarters of the SHRC shall be a such place as the State Government may specify. The commissions may inquire into the matters concerned with list II and III the 7th schedule to the Indian Constitution.

The SHRC shall submit an annual report to the State Government consisting of its work as well as recommendation of human right. The function and powers of the commission are like that of the function and powers of the NHR C. but at

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At the State level. The commission shall carry on the direction put forth by the NHRC

Function

- 1) It also reviews the factors and acts of terrorism that obstruct human rights and recommend remedial measures
- 2) It also reviews the safeguard provided in by the constitution and another laws for the protection of human rights and makes suggestions for their effective implementation.
- 3) It undertakes research in the field of human rights it also scrutinizes the international instruments on human rights and recommends for their implementation

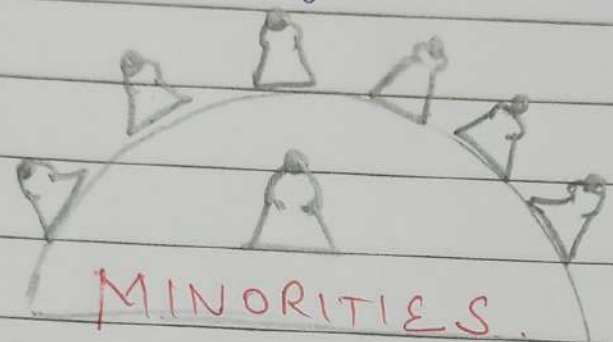
proper encouragement is given to the NAO and other institutions that are interested in the field of human rights

Minorities right Commission

The Union government set up the National Commission for Minorities under the National Commission for Minorities Act 1992. Six religious communities Muslims, Christians, Sikhs, Buddhist, Zoroastrians

and Jains have been notified in Gazette of India as minority communities by the Union Government all over India. original notification 1993 was for five religious communities sikhs, Buddhists, Parsis, christians Muslims

Six members to be nominated by the central Government from amongst persons of eminence, ability and integrity, provided that five members including the chairperson shall be from amongst the minority communities



provisioning a special officer for linguistic minorities and defining his duties