MANIDHANAEYAM FREE IAS ACADEMY - TNPSC GROUP II & IIA

UNIT - III

Human Rights Issues

1. Human Rights

Human Rights are rights inherent to all human beings regardless of race, sex, nationality, ethnicity, language and religion. Human rights include freedom from slavery and torture, freedom of opinion and expression and fair trial, the right to life work and education.

Where do Human Rights come from?

A set of basic rights and freedoms has deep roots in European and American countries.

a. Written Precursors of Human Rights Documents

- The Magna Carta of 1215(England) gave people new rights and made the king subject to the law.
- The Petition of Right 1628(England) set out the rights of the people.
- The Habeas Corpus Act of 1679(England) an act for the better securing liberty of the subject.
- The English Bill of Rights of 1689 set out certain basic civil rights.
- The French Declaration on the Rights of Man and Citizen 1789 a document of France, stating that all citizens are equal under the law.
- The US Constitution and Bill of Rights 1791 safeguards the rights of the citizens.

b. The Birth of United Nations

The idea of human rights emerged stronger after the Second World War. This War led to unimaginable violation of human rights. During the times of war, human lives lost its value and those affected by war had to struggle till the end of their life. Atrocities during the Second World War made clear that previous efforts to protect individual rights from government violations were inadequate. The rights of man were prevented or eliminated in several parts of the world due to several factors. It is proved that the government of some countries alone could not protect human rights. People wanted to ensure that never again would anyone be unjustly denied life, freedom, food, shelter, and nationality. These voices played a critical role in the San Francisco meeting in which the United Nations Charter was drafted in 1945. At this juncture, an International body, the United Nations Organisation (UNO) which was

established on 24th October 1945 took up the issue. Human Rights is an important theme in all UN policies and programmes in the areas of peace and security, development, humanitarian assistance and economic and social affairs.

c. The Universal Declaration of Human Rights (UDHR)

One of the greatest achievements of United Nations is the creation of human rights law. To advance this goal, the UN established a Commission on Human Rights. The Commission guided by Eleanor Roosevelt's (wife of former US president Franklin D Roosevelt) forceful leadership captured the world's attention. Finally, the Universal Declaration of Human Rights (UDHR) was adopted by the UN General Assembly in 1948. It is a milestone document in the history of Human rights. The Declaration was proclaimed by the UN General Assembly in Paris, France on 10th December 1948(General Assembly resolution 217A). In remembrance of every year 10th December is observed as the Human Rights Day and its regular observance commenced from 1950. It is also known as modern International Magna Carta of Human Rights. Its principles have been incorporated into the Constitutions of most of the (more than 185) nations. UDHR has been translated into more than 500 languages. It is the most translated document in the world.

2. Human Rights are based on the values

- Dignity The right to life, the right to integrity, the prohibition of enforced labour, slavery and degrading punishment.
- Justice The right to fair trial, proportional punishment to crime, the right not to be trialed more than once for the same crime
- Equality Equality before law. No discrimination on race, religion, gender, age, ability/disability etc.

Basic Characteristics of Human Rights

- Inherent they are not granted by any person or authority.
- Fundamental they are fundamental rights because without them, the life and dignity of man will be meaningless.
- Inalienable they cannot be taken away from the individual.
- Indivisible they can't be denied even when other rights have already been enjoyed.
- Universal they are universal. They apply irrespective of one's origin or status. They are enforceable without national border.

• Interdependent - they are interdependent because the fulfillment or exercise of one human right cannot be had without the realization of the other.

3. Kinds of Human Rights

There are 30 Articles incorporated in the Universal Declaration of Human Rights. These rights are broadly classified into Five primary categories. They are as follows

a. Civil Rights

The term civil rights refers to the basic rights afforded by laws of the government to every person. This is the right to be treated as an equal to anyone else. It includes the rights to life, liberty, freedom from slavery and arbitrary arrest.

b. Political Rights

Political rights are exercised in the formation and administration of a government. The Civil and Political rights are directly related to modern democracy. They protect the individual from the misuse of political power and recognise every individual's right to participate in their country's political process. It includes the freedom of expression, and peaceful assembly, the right to take part in the government of one's country, the right to vote, the freedom of speech and obtain information.

c. Social Rights

It is necessary for an individual to fully participate in the society. Social rights are those rights necessary for an adequate standard of living including the right to education, health care, food, clothing, shelter and social security.

d. Economic Rights

The right to participate in an economy that benefits all and to desirable work. Economic rights guarantee every person to have condition under which they are able to meet their needs. This includes the rights to employment and fair wage, the reasonable limitation of working hours, shelter, education and adequate standard of living, and the right to property.

e. Cultural Rights

The right to freedom of religion and to speak the language and to practice the cultural life of the community, the right to share in scientific advancement, and right to the protection of moral and material interest.

4. Human Rights Commission

The Economic and Social Council (ECOSOC), a principal organ of the United Nations was empowered to setup a commission for the promotion of human rights.

National level and State level human rights commissions were established to ensure the protection of human rights.

a. National Human Rights Commission (NHRC)

The National Human Rights Commission (NHRC) of India was established on 12th October, 1993. It is an independent statutory, and non-constitutional body. Its headquarter is located in New Delhi. NHRC is a multi-member body which consists of a Chairperson and other members. The President appoints the Chairperson and other members. They are appointed for 5 years or till the age of 70 years whichever is earlier. NHRC has five divisions. Law Division, Investigation Division, Policy Research & Programmes Division, Training Division and Administrative Division. The National Human Rights Commission is responsible for the protection and promotion of human rights in India.

b. State Human Rights Commission (SHRC)

The State Human Rights Commission of Tamil Nadu was formed on 17th April, 1997.It functions at the state level. It consists of three members including a Chairperson. A state Human Rights Commission can inquire into violation of human rights related to subjects covered under State list and Concurrent list in the seventh schedule of the Indian Constitution. (not if NHRC already enquiring)

5. Difference between Human Rights and Civil Rights

Human Rights	Civil Rights
Human rights belong to everyone,	Civil rights are those rights that one
everywhere, regardless of nationality,	enjoys by virtue of citizenship in a
sexuality, gender, race, religion or age.	particular nation or state.
Human rights are considered universal	Civil rights vary greatly from country to
to all human beings and universal in all	the country's or government to
countries.	government. It is related to the
	Constitution.
No nation may rightfully deprive	Different nations can grant or deny
human rights to an individual.	different civil rights and liberties.
Human rights are basic rights inherent	Civil rights are creation of the society.
with birth.	

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6. Human Rights Organisations

Many organisations around the world have taken their efforts to protect human rights and for ending human rights abuses. These Non-governmental organisations monitor the actions of governments and pressure them to act according to human right principles. Some of these organaisations are Amnesty International, Children's Defence Fund, Human Rights Watch.

7. Child Rights

According to Article 1 of the United Nations Convention on the Rights of the Child 1989, 'a child means every human being below the age of eighteen years'. The Convention on the Rights of the Child was proclaimed by UN on 20th November 1989.

The child is considered as an important national asset. The future of a nation depends on how its children mature and develop. So protection of children from all kinds of exploitation and abuses has become the main objective of our society. There are laws in India protecting the rights of the children.

a. Right to Education Act

Article 21A provides that the state shall provide free and compulsory education to all children aged six to fourteen years.

b. The Child Labour Act (Prohibition and Regulation Act 1986)

It provides no child who has not completed 15 years of age can be employed

c. The Juvenile Justice Act 2000 (Care and Protection of Children)

This Act tries to protect children deprived of adequate care and to reform the children by adopting child friendly approach.

d. POCSO Act 2012

Protection of Children from Sexual Offences Act regards the best interest of the child as being paramount importance in every state.

8. Women Rights

Women and girl's rights are human rights. Women are entitled to the full and equal enjoyment of all of their human rights and to be free from all forms of discrimination. This is fundamental to achieve human rights, peace and security and sustainable development. The Charter of the United Nations guarantees equal rights to both women and men.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is described as an International bill of rights for women.

In 1995 the Fourth World Conference of Women, held in Beijing, developed a Platform for Action to recognise women's rights and improve women's livelihood worldwide, and follow-up meetings monitored progress towards meeting these goals. The United Nations Development Fund for Women (UNIFEM), has worked since 1995 to implement the Beijing Platform for Action. Only when women and girls have full access to their rights will true equality exist.

9. Maintenance and Welfare of Parents and Senior Citizen Act 2007

This Act makes it legal obligation for children and heirs to provide maintenance to senior citizens and parents. Protection and support during old age are envisaged as human rights.

Legislations	Provisions
The Hindu Widow Remarriage Act	Legalised widow remarriage.
1856	ONE E E
The Hindu Marriage Act 1955	States that the marriageable age for
	women is 21.
The Hindu Succession Act 1956	Ensures the right to women to inherit
5 3 4	their parental property.
The Dowry Prohibition Act 1961	Provides drastic punishments for those
a di la constante di	ill-treating the bride in the name of
	dowry.
The Eve Teasing Act 1997	Gives relief to women.
Indecent Representation Act 1999	Prohibits the indecent representation of
	women in magazine, newspapers etc.
The Factory Act 1948,	Protects the women workers.
The Plantation Labour Act 1951,	
The Mines Act 1952 The Maternity	
benefit Act 1961	
Protection of Women from Domestic	Protects women from harassment by
Violence Act 2005	husband and family members.

10. Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights is a milestone document in the history of human rights. It was drafted by the representatives with different legal and cultural back grounds from all regions of the world. The Declaration was proclaimed by the United Nations General Assembly in Paris on 10th December 1948 (General Assembly resolution 217A) as a common standard of achievement of all people and all nations. The first time it sets out the fundamental human rights to be universally protected and the UDHR has been translated into many languages.

There are 30 articles in the Universal Declaration of Human Rights and it guarantees freedom of expression as well as civil, political, social, economic and cultural rights. These rights apply to all people, irrespective of their race, gender and nationality, as all people are born free and equal.

Social, Economic and Cultural Rights:

Social, economic and cultural rights are integral part of the human rights law that was developed due to the aftermath of World War II.

Social rights are necessary for full participation in the society. Economic rights guarantee every person to have conditions under which they are able to meet their needs. They are a part of a range of legal principles through which economic equality and freedom are preserved in a State.

Cultural rights are human rights that aim at assuring the enjoyment of culture and its components in conditions of equality, human dignity and non-discrimination.

Civil and Political Rights:

Civil and political rights protect an individual's freedom from infringement by the government, social organizations and private individuals. These rights ensure one's ability to participate in the civil and political life of the society and state.

The term 'Civil rights' refers to the basic rights afforded by laws of the government, to every person regardless of race, nationality, colour, gender, age, religion etc.,

Political rights exercised in the formation and administration of a government. They are given to the citizens by law. These rights give power to the citizens to participate either directly or indirectly in the administration.

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11. Fundamental Rights in India (In Indian Constitution)

Fundamental rights are required for the all round development of a human being. They make the life of people meaningful by giving them rights like speech and to live in an area of their choice.

The fundamental rights are:

- Right to Equality
- Right to Freedom
- Right against Exploitation
- Right to Freedom of Conscience and Religion
- Cultural and Educational Rights for minorities
- Right to Constitutional Remedies

Right to Equality:

It refers to equality before law and equal protection of law. Prohibition or discrimination on the grounds of religion, caste, races, Sex or place of birth is off ensive and one can seek justice from court.

Right to Freedom

Six diff erent types of freedom are mentioned in the Constitution. They are:

- a) Freedom of speech and expression.
- b) Freedom to assemble peacefully without arms.
- c) Freedom to form associations and unions.
- d) Freedom to reside and settle in any part of India.
- e) Freedom to move freely throughout the territory of India.
- f) Freedom to practice any profession and carry on any occupation, trade or business.

Right against Exploitation:

It is against the law to employ children below 14 years of age in mines, factories or other occupations. Neither contractor nor an employer can force a worker to do a job against their will.

Right to Freedom of Conscience and Religion:

This right gives the citizens freedom to follow and practice a religion of their choice. All citizens have the freedom of conscience or ideas. The citizens also have the freedom to follow their own ways for practicing any religion.

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Cultural and Educational Rights:

The Constitution gives us the right to preserve, protect and promote culture. We have the right to open schools, associations and societies to preserve and promote our tradition and culture. Similarly a group of people may open a school for imparting religious education to children. The government also promotes such activities by giving grants. However, such institutions cannot deny admission to anyone based on their caste, colour, creed or even religion.

Right to Constitutional Remedies

Fundamental Rights are guaranteed by the Constitution. By this right, a person can adopt Constitutional means and approach a court if he is denied the Fundamental Rights. The court then issues orders which are called 'Writs' to the government to restore the rights to the citizen. The Constitutional Remedies put to right anything which may be wrong in terms of the Constitution. This right therefore protects and safeguards all other rights.

Human Rights	Fundamental Rights
The rights that a human being deserves	The elemental rights of the citizens of a
to survive with respect and freedoms.	country, which are listed in the
	constitution and enforceable under the
5 9 5	law is known as fundamental rights.
Human rights include those rights	Fundamental rights includes only those
which are basic to a real life and are	rights which are basic to a normal life.
absolute, i.e. it cannot be taken away.	0
Human rights are recognised at	Fundamental rights are guaranteed
international level.	under the constitution of the country.

12. Differences between Human Rights and Fundamental Rights

13. National Human Rights Commission

The National Human Rights Commission is an autonomous body constituted on 12th October 1993 under the protection of Human rights Act,1993. It consists of a chairman and few other members. 3 from judiciary and 4 from other department NHRC is responsible for the protection and promotion of human rights in India defined by the Act as rights relating to life, liberty, equality and dignity of the

individual guaranteed by the Constitution or embodied in the international covenants the office is located in New Delhi .

Functions of NHRC

- To inquire into the violation of human rights or negligence in the prevention of such violation by a public servant
- To intervene in court proceedings relating to human rights
- To undertake and promote research in the field of human rights
- To engage in human rights education among various sections of society
- To encourage the effects of NGOs and institutions working in the field of human rights.

14. State Human Rights Commission (SHRC)

Every state in India has a State Human Rights Commission established in accordance with the power conferred on the state under section 21of the Protection of Human Rights Act, 1993. The protection and promotion of human rights constitute the principal concern of the Commission. Moreover, the procedures adopted by the Commission to conduct its proceedings, the suo motu actions taken on complaints regardless of the sources received and the transparency of the proceedings of the SHRC add strength to its functioning in a state. The office is the Human Rights is located in Chennai.

Functions of SHRC

- The SHRC shall enquire into violation of human rights in respect of matters specified in the state and concurrent lists.
- Its objectives and duties are the same as NHRC, but confined only to the state. It has a chairman and two members.
- It has the power of a civil court and can take cognizance of cases if received or in suo moto.
- It can also recommend compensation to victims.

Child Rights

Apart from the fundamental rights described by the Constitution, we have to ensure certain other rights.

A child is a person who has not completed the age of 18 years i.e. a minor as per UNO. This principle is exhibited in Articles 25 of the Universal Declaration of

Human Rights. Based on these principles, the declaration of the Rights of the child was accepted and adopted in the UN General Assembly on 20th November, 1989.

- Right to life
- Right to family environment
- Right to Education
- Right to benefit from Social security
- Right against sexual exploitation
- Right against sale or trafficking
- Right against other forms of exploitation like Child labour.

Right to life

A child has the right to survive even before its birth. The right to survival also includes the right to be born, the right to basic needs of food, shelter and clothing and a dignified living.

Right to Family Environment

A child has the right to live a normal childhood in a family environment. Children who have been left destitute, abandoned or orphaned also have the right to live. These children can be given for adoption to caring families.

Right to benefit from Social security Children should get fi nancial support from the country when their parents or guardians are unable to provide them with a good standard of living by themselves, due to any illness, disability or old age.

Right to Education

Right to Education Act is an Act of the Parliament of India enacted in 2009 for free and compulsory education for children from 6 to 14 years of age as under Article 21A of the Constitution.

Right against sale or trafficking of children

Children should be treated as individuals with fundamental human rights. Children are vulnerable. There are root causes such as poverty, gender discrimination, broken families etc., behind the sale or trafficking of children.

Children are subjected to sale or trafficking for various reasons – economic exploitation, sexual exploitation, sexual abuse, drug trafficking and child labour.

Right against sexual exploitation

The state should protect children from sexual exploitation and abuse, when they are forced or persuaded to take part in sexual activities physically or mentally.

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Right against other forms of exploitation like Child labour

Children are oft en employed in several industries. These children are deprived of their childhood, health and education. Th is will lead to a life of poverty and want. Th ese children are made to work in glass, match-box, lock-making factories, ragpicking, carpet – making industry, beedi - rolling, mining, stone quarrying, brick kilns and tea gardens etc.

Work is mostly gender – specific, with girls performing more home – based work, while boys are employed as waged labour. Since these children work in agricultural fields, restaurants, motor repair workshops and home – based industries, elimination of child labour remains a challenge.

The findings of an international survey reveals that children with disabilities are 3.4% more sexually abused than normal children.

Women Rights

The National Commission for Women (NCW) is constituted in India to review the Constitutional and legal safeguards for women, recommends remedial measures and advises the government on all matters of policy affecting the welfare and development of women in the country.

In modern India, women have held high offices including that of the President, Prime Minister, Speaker of the Lok Sabha, Leader of the Opposition, Union Ministers, Chief Ministers and Governors.

Women's rights under the Constitution of India mainly include equality, dignity, and freedom from discrimination; additionally, India has various statutes governing the rights of women. On 1924 at Vaikkom of kerala Periyar E.V. Ramasamy agitate for temple entry for dalits. In 1925 he started the self respect movement.

Reservations

The state of Tamil Nadu provides 69% of reservation to the Scheduled Castes, Scheduled Tribes, Most Backward Classes / Denotified Communities and Backward Classes in public employment and in educational institutions. Backward class Muslims are granted separate reservation.

Under each reserved category and in General category 30% is reserved for women and 4% is reserved for differently abled persons. Special reservation to Arunthathiyars has been granted by preferential allotment of seats with in the seats

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reserved for Scheduled castes. For persons studied in Tamil medium 20% seats are offered under each category on priority basis.

Right to Information Act (RTI)

The Right to Information Act is a revolutionary act that aims to promote transparency in the government institutions in India. This act was enacted in October 2005.

A common man can demand any government organization to provide information. The information must be provided within thirty days. If not, a fee will be collected as penalty from the concerned official.

It is one of the most powerful laws of the country. This act is people friendly; even an illiterate person can ask any Public Information Officer to write it down for him. All government agencies like Municipal Corporations, Government departments, Government Schools, Road Authorities, etc., come under this Act.

Through RTI one can get even copies of government documents such as records, reports, papers, etc., Personal information of individuals and organisations related to the country's defence and intelligence, such as BSF, CRPF, Intelligence Bureau are exempted from the RTI.

- Sign the Application form with your full name and address along with the date and send it through a registered post to the office of the concerned authority.
- If a reply is not received within 30 days, an appeal can be filed with the Appellate Authority

Labour Rights

The Constitution ensures right to equality, equality of opportunity in public employment, right to form associations and unions, right to livelihood, prohibits trafficking, forced labour and child labour. Article 39(d) ensures equal wages to male and female workers for equal work.

"The rights of every man are diminished when the rights of one man are threatened" said John F. Kennedy. Civilized nations of the world insist on equality. Nations pay more attention on human rights to ensure equality. This helps in maintaining peace, harmony and development of the country.

15. End of Apartheid

Apartheid was the highest form of discrimination that existed in South Africa. Places of residence were determined by racial classification.

It was the governing policy in the country by the minority whites over the majority non-whites. The people of South Africa protested against racial discrimination.

Nelson Mandela raised his voice against apartheid. When he organised defiant campaigns against the government, he was imprisoned. Amid growing domestic and international pressure and with the fear of a racial civil war, President F. W. de Klerk released him in 1990.

The efforts taken by Mandela and de Klerk put an end to apartheid. In 1994, a multiracial general election was held, in which Mandela led the African National Congress to victory and became President.

WRIT is a written order from the court or other legal authority ordering to do an act or not to do it.

PreethikaYashini won her right of employment by approaching the court according to the Right to Constitutional remedies.

The Right of children To free and compulsory Education (RTE) Act, 2009, means that every child has a right to formal Elementary Education. Th is right of children provides free and compulsory education till the completion of elementary education in a neighbourhood school. The child need not pay any kind of fee for completing elementary education.

Th e Kavalan SOS App is launched by the Government of Tamil Nadu for public use during emergencies. Anyone in a critical situation, not only women, can easily and directly access the State Police Control Room using this App.

POCSO Act - Protection of Children from Sexual Off ences Act Th e Protection of Children from Sexual Off ences Act, 2012 regards the best interest of the child as being of paramount importance at every stage.

Salient features of POCSO Act

- The Act defines a child as any person below eighteen years of age, to ensure the healthy, physical, emotional, intellectual and social development of the child.
- When the abuse is committed by a person in a position of trust or authority vis-à-vis the child, like a family member, neighbours or any other acquaintances.
- The statement of the child is to be recorded exactly as the child narrates.
- A child not to be called repeatedly to testify

An ordinance providing the death penalty for rapists of girls below 12 years of age and other stringent penal provisions for rape has been promulgated in April 2018. The Criminal Law Amendment Ordinance, 2018, amended the Indian Penal Code. Another salient feature of this amendment is that the fine imposed shall be just and reasonable to meet the medical expenses and rehabilitation of the victim.

1098 - Childline is India's first 24 hours free emergency phone service for children in need of assistance. Special care is given for vulnerable children like those affected by child labour, child marriage and children aff ected by any abuse.

Kailash Satyarthi is a Nobel Peace Prize recipient and the founder of Bachpan Bachao Andolan, and many other child rights organisations. More than 86,000 children in India have been liberated by him and his team members from child labour, slavery and trafficking. An 80,000 km long Global March against Child Labour was led by Kailash in 1998 which turned the world's attention towards the issue of Child labour. He received Nobel Prize for peace in the year 2014.

Child Rights in the Indian Constitution

Article 24 – No child below the age of 14 must be employed in hazardous employment.

Article 45 – Free and compulsory education for all children until they attain the age of 14 years.

Children are the foundation of any nation. When girls get married early, they lose many privileges like childhood happiness, availing education and a healthy life. The society in turn gets affected by child marriage. Thus child marriage should be avoided at any cost.

In Tamil Nadu, ancestral property rights were given to women through Hindu Succession (Tamil Nadu Amendment) Act 1989.

The Central Government amended the Hindu Succession Act in 2005. By this amendment, women are now given equal shares in inheritance of the undivided property.

Women Labourers' Welfare and Ambedkar

Dr B.R. Ambedkar framed many laws for women workers in India such as the 'Mines Maternity Benefit Act', 'Women Labour Welfare Fund', 'Women and Child Labour Protection Act', 'Maternity Benefit for Women Labour', and 'Restoration of Ban on Employment of Women on Underground Work in Coal Mines'.

It is a great victory for female workers who stand all the time more or less 12-14 hours per day while they are working in shops and commercial malls.

Female workers who are working in shops and commercial malls are not allowed to sit or even lean on the wall. They were allowed only 5 minutes of break two times a day to take rest.

There was a strong voice against this inhuman practice among women workers for a long time. Considering this, the Government of Kerala has decided to redress by amending the Shops and Commercial Establishment Act in July 2018.

Dr.B.R. Ambedkar's contribution to labourers.

- Reduction in Factory Working Hours (8 hours a day)
- Compulsory Recognition of Trade Unions
- Employment Exchange in India
- Employees State Insurance (ESI)
- Minimum Wages for labourers
- Coal and Mica Mines Provident Fund