

What Are Human Rights?

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.

These rights are all interrelated, interdependent and indivisible.

Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

Features of Human Rights

Universal and inalienable

Some fundamental human rights norms enjoy universal protection by customary international law across all boundaries and civilizations.

Human rights are inalienable. They should not be taken away, except in specific situations and according to due process.

Interdependent and indivisible

All human rights are indivisible, interrelated and interdependent. The improvement of one right facilitates advancement of the others.

Likewise, the deprivation of one right adversely affects the others.

Equal and non-discriminatory

The principle applies to everyone in relation to all human rights and freedoms and it prohibits discrimination on the basis of a list of non-exhaustive categories such as sex, race, colour and so on.

Both Rights and Obligations

Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights.

Human Rights Laws

These laws secure and protect the human rights of all the people.

These laws prohibit practices such as torture, slavery, summary execution without trial, and arbitrary detention or exile.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 by General Assembly resolution 217 A (III) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected. Since its adoption in 1948, the UDHR has been translated into more than 500 languages - the most translated document in the world - and has inspired the constitutions of many newly independent States and many new democracies.

The Declaration consists of 30 articles detailing an individual's rights which, although not legally binding in themselves, have been elaborated in subsequent international treaties, economic transfers, regional human rights instruments, national constitutions, and other laws. The Declaration was the first step in the process of formulating the International Bill of Human Rights, which was completed in 1966, and came into force in 1976, after a sufficient number of countries had ratified them.

The Declaration consists of a preamble and thirty articles:

- The preamble sets out the historical and social causes that led to the necessity of drafting the Declaration.
- Articles 1–2 established the basic concepts of dignity, liberty, and equality.

- Articles 3–5 established other individual rights, such as the *right to life* and the prohibition of *slavery* and torture.
- Articles 6–11 refer to the fundamental legality of human rights with specific remedies cited for their defence when violated.
- Articles 12–17 established the rights of the individual towards the community (including such things as *freedom of movement*).
- Articles 18–21 sanctioned the so-called "constitutional liberties", and with spiritual, public, and political freedoms, such as freedom of *thought*, opinion, religion and *conscience*, word, and *peaceful association* of the individual.
- Articles 22–27 sanctioned an individual's economic, social and cultural rights, including *healthcare*. Article 25 states: "Everyone has the *right to a standard of living* adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services." It also makes additional accommodations for security in case of physical debilitation or disability, and makes special mention of care given to those in motherhood or childhood.
- Articles 28–30 established the general ways of using these rights, the areas in which these rights of the individual can not be applied, and that they can not be overcome against the individual.

The UDHR, together with the International Covenant on Civil and Political Rights and its two Optional Protocols (on the complaints procedure and on the death penalty) and the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol, form the so-called **International Bill of Human Rights**.

Economic, social and cultural rights

The International Covenant on Economic, Social and Cultural Rights entered into force in 1976. The human rights that the Covenant seeks to promote and protect include:

- the right to work in just and favourable conditions;
- the right to social protection, to an adequate standard of living and to the highest attainable standards of physical and mental well-being;
- the right to education and the enjoyment of benefits of cultural freedom and scientific progress.

Civil and political rights

The International Covenant on Civil and Political Rights and its First Optional Protocol entered into force in 1976. The Second Optional Protocol was adopted in 1989.

The Covenant deals with such rights as freedom of movement; equality before the law; the right to a fair trial and presumption of innocence; freedom of thought, conscience and religion; freedom of opinion and expression; peaceful assembly; freedom of association; participation in public affairs and elections; and protection of minority rights. It prohibits arbitrary deprivation of life; torture, cruel or degrading treatment or punishment; slavery and forced labour; arbitrary arrest or detention; arbitrary interference with privacy; war propaganda; discrimination; and advocacy of racial or religious hatred.

International Human Rights Day

The Declaration of Human Rights Day is commemorated every year on December 10, the anniversary of the adoption of the Universal Declaration, and is known as Human Rights Day or International Human Rights Day.

Protection of Human Rights Act, 1993

INTRODUCTION-

India is a party to International covenant on civil and political rights and the International Covenant on Economic, social and cultural rights adopted by the general assembly of United Nations on 16 December, 1966. India is a signatory to the aforesaid conventions and the human rights embodied in the said conventions are substantially protected by the constitution.

Wide ranging discussions were held at various fora such as the chief minister's conference on Human Rights and seminars were organised in various parts of the country. As a result of which the President promulgated the protection of human rights Ordinance, 1993 under article 123 of the Constitution of India on 28th September, 1993 and further, it

was replaced by Protection of Human Rights Bill,1993 in the Lok Sabha which paved way for the present act.

The National Human Rights Commission in India is an autonomous public body constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993.

The Act is legislated to establish the National and State Human Rights Commission. The act gives immense powers to the Commission in furtherance of prevention of violation of human rights

Q1-When did the Protection of Human Rights Act, 1993 come into force?

Ans. After having a deliberate discussion on the subject, Human Rights Commission Bill, 1993 was introduced in the Lok Sabha on 14.05.93 and was referred to the standing committee of Parliament on Home Affairs . In view of urgency of the matter, Protection of Human Rights Ordinance,1993 was introduced on 28.09.93 by the President of India. Later, on 8.01.94, the Protection of Human Rights Act was enacted which extends to whole of India.

Q2.What do you mean by the term “Human Rights?”

Ans. In terms of Section 2 of the Protection of Human Rights Act, 1993 - “Human Rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the International covenants and enforceable by courts.

Q3-What are the main objectives of The Protection of Human Rights Act,1993?

Ans. The main objective of protection of Human Rights Act 1993 is protecting human beings from violations. Without Human rights there would be either no life or a meaning less life. The rights relating to life, liberty equality and dignity of the individual as guaranteed by the

constitution are also included in the category of "Human Rights". Human Rights are the rights and freedoms of all human beings.

The purpose of securing human rights as such are-

- * to provide protection to these rights against the abuse of power committed by the organs of state

- *to establish institution for the promotion of living condition beings

- * for the development of their personality

- * to provide effective remedial measures for obtaining redress in the event of those rights are violated.

The act provides for establishment of National Human Rights Commission, State Human right Commission and Human Rights Courts which seeks to prevent and punish any gross violation of human rights.

Q4 Mention in brief the historical background of the Protection of Human rights Act, 1933?

Ans. The Western countries, America in particular, criticised India on the violation of human rights by Indian armed forces and para-military forces, especially, in the State of Jammu and Kashmir. In the early 1990's India , felt the need for establishing a commission as a positive response to the criticisms of the foreign Governments in the context of political unrest and violence in Punjab, Jammu and Kashmir, the North-East and Andhra Pradesh. Though it is now a well-recognised fact that terrorism is a serious violation of human rights, America, never missed the opportunity to criticize India, whenever Indian security forces sought to deal sternly with extremists and ultras.

In addition to the pressure from foreign countries, there was a strong demand from the domestic front as well for the creation of a National Human Rights Commission. All these led the Government to enact a law to establish a Human Rights Commission. The Government's proposal to establish the Commission was of course sudden and without due

deliberations. The President of India on September 28, 1993 promulgated an Ordinance for the creation of a National Human Rights Commission.

Q5-What are the key provisions of The Protection of Human rights act ,1993?

Ans. Under chapter II of the Act, the National Human Rights Commission is defined under section 2 sub clause (c) and established under section 3 of the Act. The Commission shall be constituted of members as laid under provisions of section 3 sub clause (2) which lay that there shall be a Chairperson who shall be a retired chief justice of India, 2 members who have been a judge in the Supreme Court and other member shall be chief Justice of a High Court apart from this there shall be two other members who have worked in the field of human rights. Apart from the Commission there shall be a National Commission for minorities and National Commission for women.

The members of Commission shall be appointed by the President after obtaining recommendations from Prime Minister for appointment of chairperson and the members shall be appointed in consultation with Speaker of the House of the People, Minister in-charge of the Ministry of Home Affairs, Leader of the Opposition in the House of the People, Leader of the Opposition in the Council of States and Deputy Chairman of the Council of States.

The Chairperson shall hold office till a period of five years or till obtaining seventy years of age, whichever is earlier and the members shall be hold office for five years and shall be eligible for reappointment.

The act also regulates the conditions of services, salaries, allowance and appointment of additional staff.

Chapter III of the Act deals with powers and functions of the Commission dealt in sections 12 to 16. The commission is granted powers to suo-motu look into matter concerning violation of human rights. The commission shall also take action in cases where victim has filed an application for violation of human rights. The Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. The Commission is bestowed with

investigation powers while taking help of government officer's under section 14.

Chapter IV deals with the procedure after a complaint has come into notice of Commission. The Commission shall after receiving a notice of violation of human rights shall inquire into the matter.

Q6. What is National Human Rights Commission and what are the main functions of this commission?

Ans. Sec 3 of the Act provides that the Central Government shall constitute a body known as the 'National Human Rights Commission' to exercise powers conferred upon and assigned to it under the said act. The National Human Rights Commission (NHRC) of India is an autonomous public body constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993. It was given a statutory basis by The Protection of Human Rights Act, 1993 (TPHRA). The NHRC is the national human rights institution, responsible for the protection and promotion of human rights, 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 Commission shall, perform all or any of the following functions, namely:-

1. a) Inquire, on its own initiative or on a petition presented to it by a victim or any person on his behalf, into complaint of-

i) violation of human rights or abetment or

1. ii) negligence in the prevention of such violation, by a public servant;
2. b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
3. c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living condition of the inmates and make recommendations thereon ;

4. d) review the safeguards by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
5. e) review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
6. f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
7. g) undertake and promote research in the field of human rights;
8. h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
9. i) encourage the efforts of non - Governmental organizations and institutions working in the field of human rights;
10. j) such other functions as it may consider necessary for the promotion of human rights.

Q7. Who all are the members of The National Human Rights Commission and what are its powers?

Ans. The NHRC consists of:

A Chairperson

One Member who is, or has been, a Judge of the Supreme Court of India

One Member who is, or has been, the Chief Justice of a High Court

Two Members to be appointed from among persons having knowledge of, or practical experience in, matters relating to human rights

In addition, the Chairpersons of four National Commissions of (1.Minorities 2.SC 3.ST 4.Women) serve as ex officio members.

The current chairperson of the NHRC is H.L.Dattu.

Section 13 of the Act provides for the **powers of the commission**

- Powers of a civil court while trying a suit under the Code of Civil procedure, 1908
- To require any person to furnish information on such points or matters subject to any privilege which may be claimed by that person under any law for the time being in force.
- Enter into any building or place where the commission has reasons to believe that any document relating to the subject matter or inquiry may be found and may seize any such document or make extracts or copies therefrom subject to the provisions of sec 100 of Criminal Procedure Code, 1973.

Q9. What is the state human rights commission? How is it constituted?

Ans. Section 21 of the act provides for establishment of State Human Rights Commission headed by Chairperson who shall be retired Chief justice of a High Court, there shall be one other member who shall be a judge either in High Court or district Court.

The State Commission shall inquire only into matters listed in List II and List III of seventh schedule.

The chairperson of commission shall be appointed by the Chief Minister, the members shall be appointed by speaker of legislative assembly, minister in charge of department of home and leader of opposition. The members shall be appointed for a period of five years. The state shall appoint other officers as it deems necessary.

State Commission from time to time submits report on matters of concern and urgency. The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of state Legislature where it consists of two Houses, where such Legislature consists of one House, before that House along with a memorandum of action taken or

proposed to be taken on the recommendations of the State commission and the reasons for non-acceptance of the recommendations if any.

Q10.What is the work of Human rights court under sec 30 of the act?

Ans. Human Rights court is also established under section 30 of the Act for the purpose of providing speedy trial of offences arising out of violation of human rights. The State Government, may specify for each district a Court of Session to be a Human Rights Court. A special public prosecutor shall also be appointed to try such cases.

Issues of rights of women and children

Child Rights:

Who is a “CHILD”?

According to international law, a ‘child’ means every human being below the age of 18 years. This is a universally accepted definition of a child and comes from the United Nations Convention on the Rights of the Child (UNCRC), an international legal instrument accepted and ratified by most countries.

India has always recognised the category of persons below the age of 18 years as distinct legal entity. That is precisely why people can vote or get a driving license or enter into legal contracts only when they attain the age of 18 years. Marriage of a girl below the age of 18 years and a boy below 21 years is restrained under the Child Marriage Restraint Act 1929. Moreover, after ratifying the UNCRC in 1992, India changed its law on juvenile justice to ensure that every person below the age of 18 years, who is in need of care and protection, is entitled to receive it from the State.

Why do children need special attention?

- Children are more vulnerable than adults to the conditions under which they live.

- Hence, they are more affected than any other age group by the actions and inaction of governments and society.
- In most societies, including ours, views persist that children are their parents' property, or are adults in the making, or are not yet ready to contribute to society.
- Children are not seen as people who have a mind of their own, a view to express, the capacity to make a choice and an ability to decide.
- Instead of being guided by adults, their life is decided by adults.
- Children have no votes or political influence and little economic power. Too often, their voices are not heard.
- Children are particularly vulnerable to exploitation and abuse.

What are the Child Rights?

- All people under the age of 18 are entitled to the standards and rights guaranteed by the laws that govern our country and the international legal instruments we have accepted by ratifying them.
- The Constitution of India guarantees all children certain rights, which have been specially included for them. These include:
- Right to free and compulsory elementary education for all children in the 6-14 year age group (Article 21 A).
- Right to be protected from any hazardous employment till the age of 14 years (Article 24).
- Right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age or strength (Article 39(e)).
- Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment (Article 39 (f)).

Besides these they also have rights as equal citizens of India, just as any other adult male or female:

- Right to equality (Article 14).
- Right against discrimination (Article 15).
- Right to personal liberty and due process of law (Article 21).
- Right to being protected from being trafficked and forced into bonded labour (Article 23).
- Right of weaker sections of the people to be protected from social injustice and all forms of exploitation (Article 46).

The State must:

- Make special provisions for women and children (Article 15 (3)).
- Protect interest of minorities (Article 29).
- Promote educational interests of weaker sections of the people (Article 46).
- Raise the level of nutrition and standard of living of its people and the improvement of public health (Article 47).

The parliament of India enacted the Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE) on August 2009. The same got enforced on April 1st 2010.

As per the act, education is a fundamental right of every child who is between 6 and 14 years old. The act also states that until the completion of elementary education, no child shall be held back, expelled or required to pass a board examination. There is also a provision for special training of school drop-outs to bring them up to par with students of the same age.

Juvenile Justice (Care and Protection of Children) Act, 2015 has been passed by Parliament and allows for juveniles in conflict with Law in the age group of 16–18, involved in Heinous Offences, to be tried as adults. The Act also sought to create a universally accessible adoption law for India, overtaking the Hindu Adoptions and Maintenance Act (1956) (applicable to Hindus, Buddhists, Jains, and Sikhs) and the Guardians and Wards Act (1890) (applicable to Muslims), though not replacing them.

The POCSO Act, 2012 is a comprehensive law to provide for the protection of children from the offences of sexual assault, sexual harassment and pornography, while safeguarding the interests of the child at every stage of the judicial process.

United Nations Convention on the Rights Of The Child

The most significant of all international laws for children is the UN Convention on the Rights of the Child, popularly referred to as the CRC.

This, together with our Indian Constitution and Laws, determine what rights all children must have.

What is the UN Convention on the Rights of the Child?

Human rights belong to all people, regardless of their age, including children. However, because of their special status - whereby children need extra protection and guidance from adults - children also have some special rights of their own. These are called children's rights and they are laid out in the UN Convention on the Rights of the Child (CRC).

Significant features of the UN Convention on the Rights of the Child (CRC)

- Applies equally to both girls and boys up to the age of 18, even if they are married or already have children of their own.
- The convention is guided by the principles of 'Best Interest of the Child' and 'Non-discrimination' and 'Respect for views of the child.'
- It emphasises the importance of the family and the need to create an environment that is conducive to the healthy growth and development of children.
- It obligates the state to respect and ensure that children get a fair and equitable deal in society.

It draws attention to four sets of civil, political, social, economic and cultural rights:

- Survival
- Protection
- Development
- Participation

Right to Survival includes

- Right to life.
- The highest attainable standard of health.
- Nutrition.
- Adequate standard of living.
- A name and a nationality.

Right to Development includes

- Right to education.
- Support for early childhood care and development.
- Social security.
- Right to leisure, recreation and cultural activities.

Right to Protection includes freedom from all forms of

- Exploitation.
- Abuse.
- Inhuman or degrading treatment.
- Neglect.
- Special protection in special circumstances such as situations of emergency and armed conflicts, in case of disability etc.

Right to Participation includes

- Respect for the views of the child.
- Freedom of expression.
- Access to appropriate information.
- Freedom of thought, conscience and religion.

All rights are dependent on each other and are indivisible.

Women Rights in India

The rights available to women in India can be classified into two categories namely constitutional rights and legal rights. The constitutional rights are those which are provided in the various provisions of the constitution. The legal rights are those which are provided in the various laws or acts of the Parliament and the state legislatures.

Constitutional rights of women

The **Article 15(1)** states that the State shall not discriminate against any citizen of India on the ground of sex

According to **Article 15(3)** - State can make any special provision for women

According to **Article 16(2)**, no citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex

The **Article 23(1)** prohibits the practice of human trafficking in India.

As per **Article 39(a)**, women have the right to an adequate means to livelihood.

As per **Article 39(d)**, the state shall secure equal pay for equal work for both men and women.

As per **Article 39(e)**, the state is required to ensure that the health and strength of women workers are not abused and they are not forced by economic necessity to enter vocations unsuited to their strength

According to **Article 42**, the state shall make provision for securing just and humane conditions of work and Maternity relief

According to **Article 51-A(e)**, it shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women

As per **Article 243D(3)** Not less than one third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women.

As per **Article 243-D(4)** One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women

As per **Article 243-T(3)** One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women

As per **Article 243-T(4)** offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide.

Legal Rights for Women in India

- Protection of Women from Domestic Violence Act (2005) is a comprehensive legislation to protect women in India from all forms of domestic violence
- Immoral Traffic Prevention Act (1956) for prevention of trafficking for commercial sexual exploitation

- Indecent Representation Of Women (Prohibition) Act (1986) prohibits indecent presentation of women through advertisements or in publications writings paintings figures or in any other manner
- Commission of Sati (Prevention) Act (1987) provides for more effective prevention of the commission of Sati and its glorification on women
- Dowry prohibition Act (1961) prohibits the giving or taking of dowry at or before or any time after the marriage from women or her family.
- Maternity Benefit Act (1961) regulate the employment of women in certain establishments for certain period before and after childbirth and provides for Maternity benefits and certain other benefits
- Medical Termination of Pregnancy Act (1971) provides for the termination of certain pregnancies by registered medical practitioners on humanitarian and medical grounds
- Pre-Conception and Pre Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994) prohibit sex selection before or after conception and prevents the misuse of prenatal Diagnostic techniques for sex determination leading to female foeticide
- Equal Remuneration Act (1976) provides for payment of equal remuneration to both men and women workers for same work or work of a similar nature. It also prevents discrimination on the grounds of sex against women in recruitment and service conditions
- Family Courts Act (1984) provides for the establishment of family courts for speedy settlement of family disputes
- Indian Penal Code (1860) provides provisions to protect Indian women from dowry death rape kidnapping cruelty and other offences
- Code of Criminal Procedure (1973) has certain safeguards for women like obligation of a person to maintain his wife, arrest of women by Female police, prevention of arrest of women from 6pm to 6am and so on
- Indian Christian Marriage Act (1872) contains provisions relating to marriage and divorce among Christian community
- Legal Services Authority Act (1987) provides for free legal services to Indian women

- Hindu Marriage Act (1955) introduced monogamy and provided equal rights to Indian men and women in respect of marriage and divorce
- Hindu Succession Act (1956) recognises the right of women to inherit parental property equally with men
- Minimum Wages Act (1948) does not allow discrimination between male and female workers or different minimum wages for them
- Mines Act (1952) and Factories Act (1948) prohibits employment of women between 7:00 p.m. to 6 a.m. in mines and factories and provides for their safety and welfare