



- b) **Integrated Child for Malnourished Children:** Girls between the age of 3 to 6 years will be provided 600gm calories +20 gm protein for 300 days. Development services, immunization schemes and pre-school education to adult women and adolescent is also managed under this policy.
 - c) **Integrated Nutrition for Adolescent girls:** 500 calories + 20-25 gm protein for 300 days. Health check-ups, referrals and health generating programs are also a part of this scheme for adolescent girls.
 - d) **Pregnant and Nursing Mothers:** Such mothers to be provided with 500 calories + 20-25 gm protein for 300 days.
5. **Pradhan Mantri Gramodaya Yojna:** For children of grade I and II, 300 calories and 8-10 gm of protein and double the amount for children of grade III and IV is to be provided.
 6. **Balwadi Nutrition Program:** This scheme is to promote social and emotional development and provide 300 calories + 12 -15 gm protein for 270 days for children of 3-5 years.
 7. **Day Care Centers:** Under this scheme provision for supplying 300 calories + 12 -15 gm protein for 270 days and day care services to children below 5 years to low income families, supplementary nutrition, health care, medical checkup and immunization is made.

The political and economical patterns are responsible for ensuring lack of food, inspite of all the Government Schemes and Programmes which have been formulated to feed the poor.

Read and Reflect

The Supreme Court Case

On April 16, 2001, the PUCL submitted a "writ petition" to the Supreme Court of India asking three major questions:

- A. Are starvation deaths a natural phenomenon while there is a surplus stock of food grains in the Government godown? Does the right to life mean that people who are starving and who are too poor to buy food grains ought to be given food grains free of cost by the State from the surplus stock lying with the State, particularly when it is reported that a large part of it is lying unused and rotting?
- B. Does not the right to life under Article 21 of the Constitution of India include the right to food?
- C. Does not the right to food, which has been upheld by the Hon'ble Court, imply that the State has a duty to provide food especially in situations of drought, to people who are drought affected and are not in a position to purchase food?

Article 21 of the constitution, entitled "Protection of life and personal liberty", says, in its entirety, "No person shall be deprived of his life or personal liberty except according to procedure established by law".

As a result of the ongoing proceedings, the Supreme Court has been issuing orders calling upon government agencies to identify the needy within their jurisdictions, and to assure that they receive adequate food. For example, on July 23, 2001, the court said:

In our opinion, what is of utmost importance is to see that food is provided to the aged, infirm, disabled, destitute women, destitute men who are in danger of starvation, pregnant and lactating women and destitute children, especially in cases where they or members of their family do not have sufficient funds to provide food for them. In case of famine, there may be shortage of food, but here the situation is that amongst plenty there is scarcity. Plenty of food is available, but distribution of the same amongst the very poor and the destitute is scarce and





non-existent leading to mal-nourishment, starvation and other related problems.

On September 3, 2001, the court directed that 16 states and union territories that had not identified families below the poverty line must do so within two weeks, so that those families could be provided with food assistance. After two weeks, on September 17, 2001, the court reprimanded them, saying, "we are not satisfied that any such exercise in the right earnestness has been undertaken." They were then given another three weeks to comply with the order. The court also reminded the states that "certain schemes of the Central Government are mentioned which are required to be implemented by State Governments":

These schemes are: Employment Assurance Scheme which may have been replaced by a Sampurna Gramin Yojana, Mid-day Meal Scheme, Integrated Child Development Scheme, National Benefit Maternity Scheme for BPL pregnant women, National Old Age Pension Scheme for destitute persons of over 65 years, Annapurna Scheme, Antyodaya Anna Yojana, National Family Benefit Scheme and Public Distribution Scheme for BPL & APL families. The Chief Secretaries of all the States & the Union Territories were directed to report to the Cabinet Secretary, with a copy to the learned Attorney General, within three weeks from the day with regard to the implementation of all or any of the Schemes with or without any modification and if all or any of the Schemes had not been implemented then the reasons for the same.

All state governments were directed to take their *"entire allotment of food grains from the Central Government under the various Schemes and disburse the same in accordance with the Schemes"*. Further, the court required that *"the Food for Work Programme in the scarcity areas should also be implemented by the various States to the extent possible"*.

On November 28, 2001, the court issued directions to eight of the major schemes, calling on them to identify the needy and to provide them with grain and other services by early 2002. For example, for the Targeted Public Distribution Scheme, *"The States are directed to complete the identification of BPL (below poverty level) families, issuing of cards, and commencement of distribution of 25 kgs. grain per family per month latest by 1st January, 2002"*.

6.6 The National Food Security Bill, 2013

India has the largest number of hungry people in the world; despite various programmes the number of undernourished people today is same as 20 years ago. The problem is serious because chronic under-nutrition in children adversely affects them mental and physical development. Additionally, under-nutrition greatly increases the vulnerability towards infections and diseases, including measles and malaria. This, in turn, adds to mortality rate, particularly of young children. Thus, malnutrition is at the heart of a host of problems with long term consequences and perpetuating effect. In other words, the food security of people is the foundation for a prosperous and strong nation; in India it must be necessarily a part of the poverty removal programs.

The food security bill is an ambitious program ensuring access to adequate quantity of quality food at affordable prices so that people can live a dignified life. The aim of this striving project is to spend \$4 billion or more every year and distribute cheap grains to around 70 % of India's 1.2 billion people.

The Indian National Food Security Act, 2013 (also Right to Food Act), was signed and made a law on September 12, 2013. This bill was introduced into India's parliament in December 2012, circulated as a presidential ordinance in July 2013, and enacted into law in August 2013.

The law proposes to provide a kilo of rice for three rupees, a kilo of wheat for two rupees and millet for one rupee per kilogram. The food subsidies would cover 75 percent of Indians living in rural areas



and 50 percent of the urban population. The whole program would cost the government 1.3 trillion rupees, or \$23.9 billion.

Read and Respond

Case Study

Meera 34, lives in Kolkata, India. She has two school-going children to take care of. Meera earns her living working as a cook in six different houses. The salary that she earns, enables her children to live in a reasonably comfortable manner. Meera cooks many delicacies for the families she works for, but her children though not deprived of two course of meal, have to make with a basic rice and lentil dish for most of the days. If Meera can't work, food is the first thing they will miss. However Meera and her family are luckier than the four-year-old Surjo Das who lives with his seven-year-old sister on Platform No. 4 of the Howrah Railway Station in Kolkata. They beg for a living. Their breakfast is about half a puri (a staple of fried flour cake), shared by the brother and sister and lunch, two handful of dal (boiled lentils) and rice.

Surjo Das and Meera are the human face of India's grim hunger epidemic and the dismal health conditions of those too poor to afford even basic food. The National Family Health Survey for 2005/06 stated that more than 40 percent of Indian children under the age of three are underweight, 33 percent of women aged 15 to 49 have a body mass index that is below normal, and nearly four out of five children aged 6 to 35 months are anemic.

How do you think having a Food Security Bill will be able to support those who live below the poverty line? Create a case study based on two families living below poverty line.

The features of the bill is as follows:

1. This act may be called as the National Food Security Act, 2013. It extends to the whole of India;
2. Every person belonging to priority households, shall be entitled to receive five kilograms of foodgrains per person per month at subsidized prices from the state government;
3. Pregnant women and lactating mothers are entitled to a nutritious "take home ration" of 600 Calories and a maternity benefit of at least Rs 6,000 for six months;
4. Children 6 months to 14 years of age are to receive free hot meals or "take home rations";
5. The Central Government will provide funds to states in case of short supplies of food grains;
6. The current food grain allocation of the states will be protected by the central government for at least six months;
7. The State Governments will provide a food security allowance to the beneficiaries in case of non-supply of food grains;
8. The Public Distribution System(PDS) is to be reformed;
9. The eldest woman in the household, 18 years or above, is the head of the household for the issuance of the ration card;
10. There will be state- and district-level redressal mechanisms; and
11. State Food Commissions will be formed for implementation and monitoring of the provisions of the Act;

The main aim of this bill is to ensure that people have easy access to adequate quantity of quality food. Food security means that sufficient quantity of nutritious food is available all the time to fulfill the dietary needs for healthy, active and productive life.





The bill proposes to provide subsidized food grain to 67 percent of the population, 5 kg of food grain to 75 per cent of rural and 50 per cent of urban population. The Antyodaya Anna Yojna which provides protection to 2,43 crores of poorest of the poor families by supplying 35 kg of food grain would continue. Nutritional support to pregnant women is also a proposal of this Bill. Besides this it also provides meal entitlements to specific groups as: malnourished children, disaster affected persons, lactating mothers, destitute, homeless and starving persons. The Bill promises free age-appropriate meal for children between the age group of 6 months to 6 years through local aganwadi and one free mid-day meal for the children belonging to the age group of 6 to 14 years on all school working days. An effort to empower woman has also been made. The eldest woman can get the food from the Public Distribution System (PDS) for the entire family. This Bill has made use of the existing bodies like PDS and aganwadi to prevent wastage of money.

Implementation of this Bill will lower the expenditure of the BPL's enabling them to spend more on other goods and services. A BPL household that will purchase food grain at a subsidized price will be able to save 4,400 this year which exceeds their yearly medical and educational expenditure. The success of the scheme lies in proper implementation of the proposals making sure that poor are able to avail the food subsidy.

Implementation of this bill in a fair manner will be a challenge for the government. The poor people at times do not get the reserved stuff due to various reasons. An inefficient distribution channel also leads to waste. Agriculture experts are of the view that this Food Bill may discourage the agriculture production in the country as it proposes to provide grains at a very low cost. Economists have raised concerns about the cost to the exchequer at a time when the government is struggling to bridge the fiscal and current account deficits. Not only this, grains would rot lying in the open as the government does not have enough storage capacity. Viewing all this experts concluded that the hurry in which the Bill was passed did lead to a major strain to produce on consequently farmers in the years to come. More grains would be dumped in the open and rot as a result. Experts believe the rush to pass the Bill implies the intent is simply political. More investment should be made in the storage and distribution system. Only a well-planned programme will improve the food and nutritional security of poor and helpless population.

Unit End Reflections

Comprehension Questions

1. What is Right to Food? Mention the three dimensions of the Right to Food
2. How is Right to Food related with other human rights?
3. What are the obligations of the State for the fulfillment of Right to Food?
4. Discuss the common misconceptions about the right to food.
5. Describe the policies and programmes adopted by the Indian Government for the implementation of the Right to Food.
6. How have the various national and international organizations provided assistance for the protection of Right to Food?
7. Trace the development of Right to Food in India.
8. Write a short note on National Food Security Bill (2013) of India.
9. In what ways is the National Food Security Bill of 2013, inadequate for resolving the issues related to the Right to Food?
10. Suggest some remedies that would effectively help in the realization of the Right to Food.
11. Which social groups require special attention in the course of realization of Right to Food? Why?



Case Studies

Case Study 1

Sunita and Rahul along with their classmates and teacher go to Mandola village in Bihar. They see the difficult lives of people living in poverty, with little food and poor housing. They hear their stories and discover what can be done to help. They meet Mr. Pankaj, who knows that it is the right of all citizens to work with the Government to secure the basic necessities of life. He has joined with other local citizens to form an association and bring change to Mandola village. After reading the story, the reader will be able to:

- ☐ Name several causes of hunger and malnutrition.
- ☐ Describe how living conditions and access to basic services can affect food security, health and nutrition.
- ☐ Identify specific actions that can be taken by individuals, families, the community and the government to improve food, health and nutrition in poor areas.
- ☐ Poverty and discrimination prevent adequate access to food and are major causes of hunger and malnutrition. Explain

Case Study 2

Raman and Gauri are studying in a village school. They belong to a very poor family. Rarely do they get food twice a day due to poverty, lack of accessibility and availability of food. A group of citizens try to get the government to distribute stored food to the poor. This leads to free meals for school children provided by the government. Raman and Gauri can concentrate better in school now that they are not studying on an empty stomach.

Develop the story by adding points to include the following.

- ☐ Recognize that citizens can take action to make governments, politicians and civil servants accountable for what they do or do not do to ensure people's right to food.
- ☐ Identify specific situations in which people need to have food provided for them.
- ☐ State some ways in which authorities can enable and assist people to provide their own food.
- ☐ Identify specific actions that can be taken by individuals, families, the community and the government to ensure the right to food for all people. People who are not able to get adequate food on their own, need to be provided with food.

Read and Reflect

There are about 300 million hungry children in the world. 100 million of them do not go to school, and two-thirds of those not attending school are girls.

- ☐ When a full, balanced school meal is provided, a child gets at least one nutritious meal a day and is able to concentrate and learn better.
- ☐ Providing school meals helps parents send their children, especially daughters, to school.
- ☐ For only a few cents a day a child can get a nutritious meal in school.
- ☐ A school garden is a good way to improve nutrition and education of children and their families. Ask the readers to reflect on the story and discuss it. Base your discussion on the points provided in "So, what do YOU think?" on page 35 and in "This is my country" on page 26 of the cartoon book.

Have you thought about...

- ☐ What made the government take action to help hungry people?





- ☐ Why Raman and Gauri study better now that they get a meal at school?

Is it fair that...

- ☐ Sometimes governments do not fulfill their obligations?
- ☐ Some people starve, while a country has extra food stored?
- ☐ People are treated differently because of their race, religion, sex or origin?

Everybody can do something

- ☐ Choose a problem that you find unacceptable in your community and discuss what you could do something to change it.
- ☐ Steps should be taken through food and nutrition education, information and food labeling to promote balanced diets, healthy eating habits and proper food preparation.

Case Study 3

For their school work, Anna and her teenage friends interview shoppers at a supermarket, grocery store and an open-air market about their food choices. Together they learn about healthy eating and lifestyles.

- ☐ Make out a questionnaire Anna would have used for the interview with the shoppers. Ask your partner to write out the answers to the questions.
- ☐ Recognize and explain why it is important to have sufficient quantity, quality and variety of food to be healthy and well-nourished.
- ☐ Discuss how education and information help us to know about our food needs and make healthy food choices.

Points to be kept in mind

- ☐ Identify specific actions that can be taken by individuals, families, the community and the government to improve people's diets, food choices and life-styles.
- ☐ To be healthy and well-nourished, we must have the right quantity and variety of safe, good quality foods to meet our nutritional needs and we must know how to make the right food choices.
- ☐ The right to adequate food means that food must be available in sufficient quantity, quality and variety to meet the dietary needs of individuals. It must be safe and free from harmful substances and acceptable within a given culture.
- ☐ People need to have the knowledge and the skills to understand what they eat and what they need to eat so that they can make the right food choices to be healthy and well-nourished.





CHAPTER 7: RIGHT TO ADEQUATE SHELTER

The Right to Shelter or Housing is an indispensable factor in the course of ensuring human dignity to an individual. It is essential not only for the survival of human beings but also for the fulfilment of a quality life. Shelter or Housing ensures a decent standard of living for humans. Basically shelter is considered as one of the basic requirement for survival of humans, as it serves as a place to eat, sleep, relax and raise a family. But the term "Adequate housing", encompasses much more than just the four walls of a room and a roof over one's head. In fact it also helps in the fulfilment of the deep-seated psychological needs for privacy and personal space. Besides this it helps in the realization of the basic physical needs of security and protection from severe weather. Housing and shelter also help in the fulfilment of social needs by serving as centers of social gatherings, which lead to the development and nurturing of important relationships. Not only this, sometimes a house also serves as an important economic center where essential commercial activities are performed. Therefore the 'Right to Housing is an Economic, Social and Cultural Right to adequate housing and shelter. Thus housing is extremely essential for a normal healthy living.



We all need a proper house to live in

7.1 Housing in the Context of Human Rights

Many people would consider the inclusion of a subject such as housing in human rights, to be quite unusual. However, a closer look of the international and national laws explains the significance of a secure place to reside. These laws have made people realize that housing is required not only for the well being and security of individuals but also for the maintenance of human dignity. This goes on to reveal the implications and importance of housing as a human right for ensuring physical health, mental health and a good quality of life to humans all over the world. Due to these reasons adequate housing is considered as one of the most basic human needs universally.

In spite of the realization of importance of adequate housing by International and National organizations, an estimate made by the United Nations Centre for Human Settlements, has brought to light that over 1 billion people all over the world still live in inadequate houses. In addition to this around 100 million people are still living in conditions classified as homelessness. Similarly the census report of 2001 reveals that 78 million people across India are living without a home.

Various factors like increase in population, migration to other areas in search of livelihoods, conflicts over land and inadequate financial and natural resources, have led to increased homelessness and inadequate housing facilities all over the world. Homeless people can be seen sleeping on pavements, under bridges, under trucks buses or cars, on railway stations, bus stations, public parks etc. Multitudes of them are also found living in ghettos, slums and in buildings which have been abandoned by other people.

The Commission on Human Settlements' **Global Strategy for Shelter to the Year 2000** (1998) defines adequate shelter as:

"Adequate shelter means... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost."





Read and Reflect

Homelessness in Delhi

The widespread prevalence of homelessness in India's capital city, New Delhi, is a matter of national shame. What is even more horrifying is the failure of the city and central government to firstly acknowledge and then address the crisis. The most recent official effort to document the extent of homelessness in Delhi occurred in 1991 as part of the Census of India.

According to unofficial estimates, there are nearly 100,000 homeless on any given day in Delhi, and there are, at any given time, 10,000 homeless women. At present, however, there are only 12 permanent shelters in Delhi, which at maximum capacity, offer accommodation to 6,200 individuals, leaving the remaining 94% to fend for themselves on the streets of Delhi. Of these, only three shelters are available for use by homeless women which, at maximum capacity, are capable of accommodating roughly 100 women, or 1% of Delhi's total estimated population of homeless women.

An examination of the conditions of existing permanent night shelters further elucidates both the gross negligence of the Municipal Corporation of Delhi (MCD), the New Delhi Municipal Council (NDMC) and the Government of Delhi, as well as their continued derogation from the responsibility to help care for the most vulnerable segments of society. These shelters are characterized by a state of general disrepair and in the most egregious of cases, are grossly inadequate and unsanitary. Forced to use these shelters due to a lack of available alternatives, many of the homeless frequently complain of a lack of water, medical facilities, storage facilities, insufficient or inadequately functioning toilets, mistreatment and abuse at the hands of MCD staff and police, and filthy and unwashed bedding.

Source: Housing and Land Rights Network Press Release on Homelessness in Delhi, 11 January 2006 (available at www.hic-sarp.org)

7.2 Homelessness

A situation when an individual lacks a regular, safe and proper accommodation as he may not be able to maintain or afford it.

7.2.1 Who are Homeless?

A homeless person is a person who lacks a proper night time residing place.

They are categorized as:

1. People living in private or public operated shelters built for providing temporary accommodation. (These include hotels, transitional housing facilities for mentally ill, congregate shelters etc.)
2. People residing in temporary accommodation provided by institutions that provides a temporary residence for individuals.
3. People using public or private places (of other individuals) as a regular accommodation for sleeping.

7.2.2 Factors Contributing to Homelessness

A broad range of people suffer due to homelessness. Various circumstances contribute to homelessness. They can broadly be divided into the following two categories:





(a) **Structural Factors:**

1. **Lack of reasonably Priced Housing**

Homelessness is greatly influenced by property rates. If the property rates are very high, then the low income group people are unable to afford a house.

2. **Unemployment due to Changes in the industrial economy or other fields**

Changes in economy have a great impact on the economic condition of the industrial sector and other sectors of society. The downfall of an economy results in cost cutting by industries due to which many people are thrown out of jobs. Thus due to unemployment these people are unable to afford a house.

3. **Insufficient income**

Sometimes in spite of being employed, people cannot afford a house due to their meager salaries.

4. **Withdrawal of family and social support**

Patients with mental or health problems are sometimes considered a burden by their family and society. The withdrawal of family and social support in such cases renders such people homeless.

Read and Respond

Make a list of the basic necessities to build an adequate housing. Make a separate list of things you require for survival and things required to live a safe and fulfilling life. Compare the list made by you with your classmates.

(b) **Individual factors:**

1. **Psychological or Physical Sickness**

Sometimes due to certain psychological or physical sickness people are unable to live a normal life. They are not able to earn their livelihood. Thus due to lack of finances and mental instability they are unable to afford a house.

2. **Material Abuse**

Sometimes physical or mental abuse of individuals renders them homeless.

3. **Domestic Violence**

Many individuals are sometimes forced to leave their homes when they are unable to bear the atrocities meted out to them by their family members. The main victims in such cases are women, children and the elderly.

4. **Loss of Employment**

Many individuals are rendered homeless when they are not able to afford a house when they suddenly become unemployed due to various reasons.

Besides these there are **many other factors** that contribute to homelessness. Some of them are as follows:

1. **Poverty:** Poverty often leads to homelessness as people living in poverty are not in a position to afford the basic requirements of life like food, shelter, healthcare etc.
2. **Drug Addiction:** Drug addiction further increases the chances of homelessness as when poverty stricken people further waste their meager resources on buying drugs, their financial capacity to afford house further reduces.
3. **War:** Destruction due to war renders several people homeless.
4. **Unemployment:** Unemployment results in loss of income which often leads to homelessness.





5. **Divorce:** Separation of couples due to divorce leads to homelessness of either husband or wife. In such situations the children of these single parents are also at the risk of becoming homeless.
6. **Natural Disasters:** Natural disasters such as cyclone, Tsunami and other calamities lead to destruction of homes and families. Thus natural disasters often dislocate several families and render them homeless.

Read and Respond

Ruchi, a girl of ten years is woken up every morning by the yelling sound of policemen. They shout at her every morning, in order to get her off the pavement. For doing so they often abuse her physically. Ruchi is homeless, and keeps moving on the streets of Delhi in search of shelter, just like thousands of other homeless children in Delhi. Ruchi came to Delhi from Rajasthan with her mother and younger brother in search of a living, when they lost their land to moneylenders due to rising debt. Together they begged on the streets of Delhi. One fine day, she got separated from her mother and since then is trying to survive alone on the streets of Delhi. She now manages to buy just one meal for herself in a day by selling newspapers at traffic lights. But she lives in fear on the streets of Delhi due to street hoodlums and the police.

Read the case study given above and answer the following questions:

- Q1. Look around for homeless people around you in your area. List out the basic necessities that they lack. Amongst these which according to you are the most essential for survival of human beings?
- Q2. Find out about the ongoing government schemes to ameliorate the homeless in your locality.
- Q3. Suggest the ways in which you could help in the rehabilitation of homeless people living in your city.

7.3 What is the Right to Shelter?

The right to adequate shelter is a universal right which has been recognized internationally and nationally all over the world. Up till now more than one hundred national constitutions all over the world have recognized the Right to shelter. The right to shelter is a right that has been guaranteed to every individual person.

The world has realized the importance of the Right to shelter and by and large it has been included in several international legally-binding documents. The most significant amongst these is the International Covenant on Economic, Social, and Cultural Rights (ICESCR) (Article 11.1), which determines that:

"The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."

NO SHELTER

Families (in lakh)	2001	2011
Rural	2.6 0.19%	1.93 0.11%
Urban	1.88 0.34%	2.57 0.32%
Total	4.48 0.23%	4.5 0.18%
Population (in lakh)		
Rural	11.65 0.16%	8.35 0.10%
Urban	7.79 0.27%	9.38 0.25%
Total	19.43 0.19%	17.73 0.15%



The meaning and scope of the right to housing as expressed in the Covenant of 1991 by the Committee on Economic, Social, and Cultural Rights or CESCR, (the body that monitors the International Covenant on Economic, Social and Cultural Rights) was further clarified in the General Comment 4 issued by the CESCR. It says:

"The right to adequate housing applies to everyone. The phrase himself and his family does not refer to any limitation in the right to housing to individuals, female-headed households, or other groups. Furthermore, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status, and enjoyment of this right must not be subject to any form of discrimination." (paragraph 6) It further explains: *"The right to housing should be interpreted in a broad and inclusive sense as the right to live in security, peace and dignity, rather than a narrow or restrictive sense. The right to housing is inextricably linked to other fundamental human rights and should be seen as referring to not only housing by adequate housing."* (paragraph 7). The right to adequate housing must be viewed in conjunction with other human rights included in the two International Covenants and other international instruments (paragraph 9).

Thus "adequacy" with regard to housing is found to be greatly influenced by several social, economic, cultural, climatic and ecological factors. The Right to Adequate Housing is also applicable in the following context:

Legal Security of Tenure: Security of tenure means that people living in an area should be provided legal security against any kind of threat, harassment or forced eviction, by their government.

Availability of services, materials, facilities and infrastructure: Adequate housing is one that ensures comfort, protection and proper health and nutritional facilities. An adequate house should have the provision of safe drinking water, energy for cooking, heating and lighting, sustainable access to natural and common resources, proper sanitation facilities emergency services etc.

Affordability: Affordable houses are houses which are reasonably priced and their cost does not hamper other basic requirements. The governments of the various countries should ensure by all means that the costs of houses are in proportion to the overall income levels of the majority of the people. They should also provide subsidies to those who are unable to afford a respectable housing. Steps should be taken to protect tenants against unreasonable rates of rent. States should also ensure proper availability of materials required to build houses.

Read and Respond

Can you link each of these rights to shelter through examples? Discuss with your partner and present to the class.

Habitability: Habitable housing ensures adequate space, security and protection from health threats and weather, to its occupants.

Accessibility: Adequate housing must be accessible to all social groups in a society without any kind of discrimination. Extra consideration must be provided to all disadvantaged groups of the society who have special housing needs.

Location: An adequate housing is one that is located in an area where adequate jobs, health care facilities, schools and other social facilities are easily accessible. They should be located in a pollution free environment.

Cultural Adequacy: Housing should provide all modern facilities but should also maintain the ethnicity and culture of that society. The state should provide facilities to ensure protection of cultural dimensions.

The Commission on Human Settlements' Global Strategy for Shelter to the Year 2000 (1998) has defined adequacy in the following way:

"Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate





lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost.”

In addition to the Human Rights referred to in the CESCR's General Comment 4 there are many other rights which need to be imparted for the proper fulfilment of the right to adequate housing.

Thus it is extremely essential to incorporate the following rights for proper realization of the Right to adequate shelter:

- ❑ The Principle of Non-Discrimination.
- ❑ The Right to Freedom of Expression.
- ❑ The Right to Freedom of Association (such as for tenants and other community-based groups)
- ❑ The Right to Freedom of Residence (and the right to freedom of movement).
- ❑ The Right to Participate in Public Decision-Making.
- ❑ The Right to Security of a Person (in the case of forced or arbitrary evictions or other forms of harassment).
- ❑ The right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence.

On the other hand the right to adequate housing is the basic factor in ensuring the fulfilment of the following human rights:

The Right to Family, The Right to Participate in Government, The Right to Work, - The Right to Rest and Leisure, - The Right to Food and Water, - The Right to the Highest Attainable Level of Physical and Mental Health, The Right to Education, The Right to Participate in the Cultural Life of the Community.

7.3.1 Key Aspects of the Right to Adequate Housing

The Committee on Economic, Social and Cultural Rights has emphasized clearly that the right to adequate housing has a very wide meaning. It should not be interpreted in the literal sense only but should be interpreted in the broad sense as a right that assures a life of security, peace and dignity. The United Nations Committee on general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions, have defined the characteristics of the Right to Adequate Housing in the following manner:

The right to adequate housing encompasses the following freedoms. These freedoms include:

1. Protection against forced destruction, demolition or eviction from one's house.
2. Guarantee of freedom from arbitrary interference in the privacy, family or home of an individual.
3. Guarantee of freedom to an individual for choosing one's residence and location of residence. Every individual should also be ensured freedom of movement.

Read and Reflect

The **Bodhgaya movement** took place in the Gaya district of Bihar, in 1978. This movement has a great historical significance in the struggle for land rights of women. In this movement of landless labourers, women, demanding land rights for the land which they had been cultivating for decades. In course of events of this movement, women captured around 3,000 acres of land and ploughed it, independently in 1980.

The right to adequate housing entitles an individual to the following rights:

1. Security of Tenure.



2. Compensation of house, land and property.
3. Equality and non- differentiation in access to adequate housing.
4. Right to participate in planning and decision making of issues related to housing in the society as well as at the national level.

Read and Respond

Case Study 1

"All of us are poor. We cannot rent a house. Everyone is a daily wage worker. On the day of Sankranti, many bulldozers with trucks came. We tried to protest. They abused us. If the government had objections to our houses, why did they provide electricity metres?"

Pratibha Prakash Kadam, Vikhroli, Mumbai

Source: Bulldozing Rights: A Report on the Forced Evictions and Housing Policies for the Poor in Mumbai, Indian

People's Tribunal on Environment and Human Rights, Mumbai, June 2005.

Case Study 2

"One morning, the police came and threw us out of the shelter by force. The NDMC sweepers beat us up very badly. Small children were picked up and hurled onto the streets. We were all injured and had to be taken to the hospital by people from Aashray Adhikar Abhiyan. Since that day, I suffer from nervous attacks. I am told that relocating slum dwellers is part of a city beautification drive. What kind of beauty will it be, that kills off people to make space for parks?"

Haruna Begum (45 years) who was evicted in October 2004 from Palika Hostel night shelter in New Delhi where she used to sleep after she was forcibly evicted from the slum cluster in which she resided with her children.

Source: Report of Miloon Kothari 2006, for National Human Rights Commission

Read the case studies given above and answer the following questions

- Q1. Imagine yourself to be the victim of such a situation? What would be your course of action in this kind of situation?
- Q2. Who according to you is responsible for these kind of forced evictions?
- Q3. Give your views on the role of government in situations like this?
- Q4. Suggest remedies for forced evictions of slums?

7.4 Violation of Housing Rights in Post-disaster Scenario

The housing and habitats of people get destroyed many times due to natural disasters like earthquakes, cyclones, floods etc. For instance as a result of the tsunami of 26 December 2004, in the Indian Ocean, around 1.8 to 2.5 million people were rendered homeless across several countries. Similarly the massive earthquake of 26th January 2001, in Gujarat, rendered thousands of people homeless. Due to such disasters, the survivors face very difficult living situations due to loss of family members, housing and forced relocation. Along with this they face multiple violations of human rights due to lack of adequate facilities in temporary shelters or delayed facilities in construction of permanent housing. Women suffer even more as the reconstruction efforts done are usually gender-insensitive.





7.4.1 Development of Right to Shelter at the International Level

The increasing number of homeless people throughout the world, developed the need for some kind of right to adequate housing. In the International arena the Right to Shelter was recognized and promoted by the United Nations soon after its formation by the following institutions:

(I) United Nations Universal Declaration of Human Rights and Right to shelter

The Universal Declaration of Human Rights in Article 25 (1), has clearly mentioned the right to adequate housing in the following words:

"Everyone has the right to a standard of living adequate for health and well being of himself [or herself] and his [or her] family, including food, clothing, housing and medical care and necessary social services"

The protection of the right to adequate housing, enshrined in the Universal Declaration of human rights, pertains to every Member State of the United Nations. After this adoption of the Universal Declaration by the U.N in 1948, the United Nations has adopted several other measures for reaffirming and reinforcing housing rights.

(ii) International Covenants, Conventions and Right to Shelter

In addition to the Universal Declaration, several international covenants and conventions encompass provisions for Right to Adequate housing. These international instruments or treaties are obligatory for all the States that are a part of it.

ICESCR (International Covenant on Economic, Social and Cultural Rights of February 2002): It is mandatory for the 145 States that participated in the Covenant, to implement the Article 11(1), which states:

"The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself [or herself] and his [or her] family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent."

(iii) Universal Declaration of Human Rights (Article 17)

General Comments and Recommendations adopted by United Nations Treaty-Monitoring Bodies on Right to shelter:

The United Nations Committee on Economic, Social and Cultural Rights, is the treaty monitoring body that monitor that the member States as to whether they are complying with the rules promulgated by the ICESCR. It consists of 18 independent experts. Thus it has played a very prominent role for the promotion and implementation of the rights regarding adequate housing.

As we know the right to adequate housing has been guaranteed by the Article 11(1) of the ICESCR. Thus it is one of the most significant legal document of the human right to adequate housing, in the international arena. Thus this provision of the ICESCR has been acknowledged as the most prominent document by the Committee on Economic, Social and Cultural Rights during the past decade, as it has resulted in inspiring many more jurisprudential developments, for the fulfilment of the right to shelter.

In 1991, the Committee adopted General Comment No. 4 on the right to adequate housing, which provides the most authoritative legal interpretation of the right to adequate housing.

In addition to this the General Comment, No. 4 gives a legal clarification of the right to shelter and explains its real meaning. It explains that the right to shelter should not be interpreted in



the literal sense and as a commodity (i.e. right to shelter means providing merely a roof over one's head). Whereas, it should be interpreted in a broad sense, as a right to live somewhere in security, peace and dignity. Thus General Comment No. 4 explains the concept of adequate housing with the help of a number of factors, which must be fulfilled in order to determine shelters as "adequate housing". It has been analyzed that several social, economic, cultural, climatic, ecological and other factors determine adequacy. As mentioned earlier the General Comment has outlined seven more integral components that determine adequacy, namely Legal security of tenure; availability of services, materials, facilities and infrastructure; Affordability; Abetability; Accessibility; Location and Cultural adequacy.

General Comment No. 4 also outlines the necessary legal steps, that need to be taken by the Governments of the member states, to fulfil the obligations for housing rights outlined by the international laws.

The issue of liability for forced evictions, have also been addressed by International human right bodies from time to time. The Committee on Economic, Social and Cultural Rights in 1997, adopted the General Comment No.7, on the right to adequate housing (forced evictions). General Comment No 7 explains the meaning of 'forced eviction' clearly. It also reaffirms that evictions, whether forced or lawful, are absolute violation of the right to adequate housing. In addition to this it has also outlined a series of procedural steps that must be adopted in cases where eviction is inevitable.

Besides this in 1993, the Commission on Human Settlements urged the various member States to adopt appropriate monitoring techniques to measure the extent of inadequate housing homelessness or other issues regarding right to adequate housing. In addition to this, Agenda 21 also recognized the importance of security of tenure. It also prohibited such practices (especially forced mass evictions and racial or any other discrimination) of the States themselves, which would result in infringement of the human rights to adequate housing.

After examining the reports of the member States the Committee reached a conclusion that majority of the States have failed to comply with their respective housing right obligations outlined in the Covenant. To eradicate this problem the Committee gave recommendations to the member States, to issue legislative and other measures for fulfilling the norms embodied in the Covenant as well as for the realization of the housing rights for its citizens.

Other human rights treaty-monitoring bodies also monitor whether the member States are complying with the housing right norms. Notable efforts in the direction have been made by the following Committees - the United Nations Committee on the Elimination of Racial Discrimination, the Committee on the Rights of the Child and the Committee on the Elimination of All Forms of Discrimination against Women. All of these ensure the global compliance of housing right norms which are found in the respective treaties monitored by these bodies.

7.4.2 Office of the High Commissioner for Human Rights (OHCHR) and UN-HABITAT and Right to shelter

Recent by, great efforts have been made by UN-HABITAT and OHCHR of the U.N to fulfil the housing rights in the world. For the implementation of the housing rights that have been for long adopted internationally, have played a great role in protecting them housing rights have been protected to a great degree by these institutions.

As the co-coordination of the human rights programme of the UN, the OHCHR has greatly promoted housing rights, A number of fact sheets on the human right to adequate housing have been published





by the OHCHR. Recently it has also launched a website (<http://www.unhchr.ch/housing>), to provide information on housing rights to the public and various governments all over the world.

In addition to this expert conferences on human rights to adequate housing were convened by OHCHR and UN-HABITAT, in 1996 and 1999. This has greatly strengthened the efforts being made for the promotion of housing rights. The UN-HABITAT is continuously working towards fulfilment of housing rights, for which it has developed a United Nations housing rights strategy.

Furthermore, both the organizations are now working in collaboration, which has led to the formation of a joint organization, UNHRP in 2002.

7.4.3 Manifest Violations of the Human Right to Adequate Housing

1. Slums and Inadequate Settlements

A "slum" is: *"a settlement in an urban area in which more than half of the inhabitants live in inadequate housing, and lack basic services."* (as defined at an **Expert Group Meeting by UN-HABITAT and its partners in November 2002**)

A slum household consists of a group of people living under a common roof, lacking one or more of the following five services:

- ☐ Sturdy or prolonged housing
- ☐ Sufficient residing area
- ☐ Availability of suitable water
- ☐ Availability of proper sanitation facility
- ☐ Security of tenure



Slum clusters near the drain

The continuous rise in the number of slum dwellers all over the world reflects the failure on the part of the State, to provide adequate housing to its citizens. Although the nature and characteristics of the slums differ according to geographical regions and cultures, the common underlying feature of deprivation of basic services for inhabitants, is the same universally in all slums.

According to the UN-HABITAT the number of slum dwellers all over the world have increased from 715 million since 1990, to 998 million today. One out of every three city dwellers, live in slums. Most of the slum dwellers in Southern Asia - 63 percent, or almost 170 million people - reside in India. (*Report of the UN Special Rapporteur on adequate housing, Miloon Kothari, E/CN.4/2006/41, 14 March, 2006.*)

It has been observed that to get rid of the problem regarding slums, instead of improving the living condition of the slum dwellers the States have adopted the policy of demolishing slums. This is certainly a violation of the right to adequate housing.

2. Forced Evictions

General Comment No. 7 of the Committee on Economic, Social and Cultural Rights, has defined forced eviction as the, *"permanent or temporary removal against the will of individuals, families or communities from their homes or land, which they occupy, without the provision of and access to, appropriate forms of legal or other protection."* Further it encouraged member states to formulate appropriate laws to prevent forced evictions, and punish the ones violating those laws.



The UN Commission on Human Rights has also recognized forced evictions as a violation of the right to adequate housing in the UN Commission on Human Rights resolution 'Forced Evictions', E/CN.4/1993/77.

In spite of the development of so many provisions internationally for the prevention of forced eviction, it is still being carried out in large numbers all over India, especially for development of projects and in urban slums, especially in metro cities like Mumbai, New Delhi, Hyderabad, Chennai, Kolkata, Ahmedabad and Bangalore.

This problem has become very grave in cities like Delhi and Mumbai, where after massive slum demolitions no steps were taken for alternative housing and rehabilitation of slum dwellers. The livelihoods of slum dwellers are completely destroyed sometimes due to forced relocation to distant sites. They are not paid any compensation either and are sometimes forced to live on streets, where they are relegated to abuse and marginalization. Thus the Hazards Centre, New Delhi has estimated, that in New Delhi alone, over 100,00 families i.e. over 40,000 people were evicted between the years 2000 and 2006. Similarly, brutal slum demolitions have also taken place in the city of Mumbai over the last few years. Such events thus not only violate the Right to Shelter but also Human Rights to Livelihood, Health, Education and the Right to Live with Dignity.

7.5 Development of Right to Shelter in India

Although the right to an adequate housing has been acknowledged as the basic human right, many people all over the world are still deprived of it. The data of Census 2001, indicates clearly that 82 million of India's total urban population still resides in slums and other inadequate settlements. Thus about 30% of India's urban population even now have little or no access to adequate housing facilities. The situation is even worse in rural areas. Therefore according to the estimate around 50% of India's population is still deprived of adequate living conditions.

To eradicate this problem a number of countries all over the world, have adopted many national and municipal laws, to guarantee the right to adequate housing. To follow suit, India has also adopted certain constitutional provisions and laws, to provide the right to adequate housing to all its citizens.

7.5.1 National Legal Obligations Regarding Right to Adequate Housing

The Principles of Liberty, Fraternity, Equality and Justice, are determinedly grounded in the Constitution of India. The constitutional provisions that guarantee the Right to Adequate housing are:

A. Fundamental Rights

- a. Equality before the law. (Article 14)
- b. Non-discrimination on grounds of religion, race, caste, sex, place of birth. (Article 15 (1))
- c. Special provisions in favour of women and children based on the principle of protective discrimination. (Article 15 (3))
- d. Equality of opportunity in matters relating to employment or appointment to any office under the State. (Article 16)
- e. Freedom to move Freely throughout the territory of India. (Article 19 (1) (d))
- f. Freedom to Reside and settle in any part of the territory of India. (Article 19 (1) (e))





- g. Right of all citizens to practice any profession, or to carry on any occupation, trade or business. (Article 19 (1) (g))
- h. Right to Life and Personal Liberty. (Article 21)

B. Directive Principles of State Policy

- a. State Policy to be directed to secure for both men and women equally, the right to an adequate means of livelihood. (Article 39(a))
- b. State Policy to be directed to ensure equal pay for equal work for both men and women. (Article 39 (d))
- c. State Policy to be directed towards securing that the health and strength of workers, men and women and children are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age or strength. (Article 39 (e))
- d. State policy to secure equal justice and free legal aid to ensure that opportunities of securing justice are not denied to any citizen. (Article 39-A)
- e. Provisions to be made by the State for securing just and humane conditions of work and for maternity relief. (Article (42))
- f. State to secure a Uniform Civil Code for the citizens. (Article 44)
- g. It is the duty of the State to raise the level of nutrition, standard of living and to improve public health. (Article 47)
- h. The state shall endeavour to foster respect for international law and treaty obligations in the dealings of organized peoples with one another. (Article 51 (c))

C. Fundamental Duties

It is the fundamental duty of the State and all citizens to renounce practices derogatory to the dignity of Women. (Article 51(A)).

D. Legal Right to Property

No man or woman shall be deprived of his or her right to property by the State, except by authority of law. (Article 300-A).

7.5.2 Pronouncements/Decisions of Apex Court Regarding Right to Adequate Housing

A number of important judgments have reiterated the relation between the right to housing and right to life, as guaranteed by the Article 21 of our Constitution. The Supreme Court of India has also several times stated that the right to adequate housing is a fundamental human right through numerous pronouncements, some of which are:

- ❑ U.P. Avas Evam Vikas Parishad vs. Friends Coop. Housing Society Ltd: In this case the court pronounced that: "The right to shelter is a fundamental right which springs from the

Read and Reflect

Olga Tellis vs. Bombay Municipal Corporation (1985) 3 SCC 545 : In the pronouncement of this case, the court stated that the right to livelihood is inseparable from right to life. Eviction of the petitioners from their slum and pavement dwellings would deprive them of their livelihood, which would be a violation of the Article 21 of the Constitution. The Later benches of the Supreme Court have also approved of the Olga Tellis pronouncement and have followed suit.

- **Ahmedabad Municipal Corporation vs. Nawab Khan Gulab Khan, (1997) 11 SCC 123** Article 19 (1) (e) : In this case the court held that the right to residence and settlement in any part of India, is as a basic right of Indians. The court also called for special protection for Scheduled Castes and Tribes.



right to residence under Article 19(1)(e) and the right to life under Article 21".

- ❑ **Francis Coralie vs Union Territory of Delhi (1981)** In the decision of this case the Supreme Court stated: "We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and coming along with fellow beings."
- ❑ **Chamoli Singh and others vs. State of UP [(1996) 2 SCC 549 132]:** In the decision of this case the Supreme Court stated that the entire list of civil, political, social and cultural rights, upheld by the Universal Declaration of Human Rights and the Indian Constitution cannot be implemented properly without the fulfilment of basic human rights, especially right to life. According to this decision, the right to life implies the right to food, water, decent environment, education, medical care and shelter. It further explained the right to shelter as *"Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop and develop as a human being."*

7.5.3 International Legal Obligations of India for the Right to Adequate Housing

India is legally bound to fulfil the international laws on right to adequate housing that India has ratified.

These include the following instruments:

- ❑ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- ❑ The Convention on the Rights of the Child (CRC)
- ❑ The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- ❑ The International Covenant on Economic, Social and Cultural Rights (ICESCR).

Read and Respond

Interact with some homeless people living in your locality. Explore their needs and reflect on how you can help them in achieving their right to adequate housing.

As India has signed all these conventions, it is the bounded duty of the Indian Government that the economic, social and cultural rights outlined in these conventions are promoted and protected in India.

7.6 Further Recommendations for the Realization of Right to Adequate Housing

The inequalities in the area of land ownership and lack of adequate housing and living conditions in India, clearly indicate that we still have to go a long way for the fulfilment of right to adequate housing. The basic requirement to resolve the housing needs is to develop strategies to address structural causes of homelessness, like unemployment, forced evictions, migration etc. Besides this it is also necessary to address the crises that arise through homelessness.

The problem of inadequate housing can be resolved by the national and state governments, through some of the following recommendations:

- ❑ By developing schemes for public housing for the poor;





- ❑ By introducing land ceasing laws. Along with it by solving cases that are obstructing redistribution of land that the government had already ceased;
- ❑ By implementation of agrarian and land reforms;
- ❑ Developing schemes for rural development, employment and prevention of forced migration to urban areas;
- ❑ Resolve the problems of both homelessness and inadequate housing conditions in rural as well as urban areas;
- ❑ Implementation of credit schemes with low interest for farmers;
- ❑ Formulate laws for protection of land and housing rights of women. For example laws on joint registration of both men and women, for marital property;
- ❑ Introduce measures to check excessive land holdings by some individuals or real estate, and prevent growth of land mafias;
- ❑ Development of sufficient and adequate housing for the homeless in urban areas;
- ❑ Development of separate, sufficient and adequate housing for the homeless women and children;
- ❑ Implementation of comprehensive rehabilitation schemes and policies for prevention of forced evictions and displacement;
- ❑ Introduction of comprehensive housing policies, to resolve the issues of slums adequately; and
- ❑ Ensure that national laws and policies on housing comply with international laws and that international norms on adequate housing are being followed;

7.6.1 Individual Advocacy Methods

Although a number of initiatives have been taken for the fulfilment of right to adequate housing, a lot more needs to be done to bring in the reform effectively. This change can be brought about by each and every individual. Some advocacy methods to be adopted by individuals can include :

- ❑ Performing Direct Action through rallies, protests, petitions, campaigns etc.;
- ❑ Approaching or writing letters to government officials;
- ❑ Participating in ongoing campaigns for the promotion of right to adequate housing;
- ❑ Organizing and participating in seminars and conferences related to right to adequate housing;
- ❑ Spreading awareness regarding issues of right to adequate housing through media;
- ❑ Creating awareness amongst people by distributing leaflets, brochures, articles etc.;
- ❑ Working as volunteers for local organizations, for promotion of right to adequate housing;
- ❑ Raising funds for projects working for the homeless and street children; and
- ❑ Spreading social awareness through artistic expression such as music, dance, street theatre etc.;

Unit End Reflections

Comprehension Questions

1. Describe the obligations of the States as outlined in the international human right instruments for the fulfilment of the right to adequate housing .





2. What are the legal obligations of India regarding right to adequate housing.
3. Discuss the impact of jurisprudence developed over last two decade by the Supreme Court, on the right to adequate housing and .
4. Write a short note on National Habitat and Housing Policy, 1998 and National Policy on Resettlement and Rehabilitation, 2004.
5. How can we say that forced evictions, especially in the case of slum dwellers, violate the human right to adequate housing?
6. Discuss the impact of developmental projects on the right to housing.

Case Study

Violation of the Right to Adequate Housing and Land of Tsunami Survivors in Tamil Nadu and Andaman and Nicobar Islands

A year and a half after the tsunami, despite the outpouring of aid, living conditions of many tsunami survivors are still abysmal. The failure of involved agencies and actors to adequately respond to the disaster is reason for much concern.

In India, the survivors' human right to adequate housing has been violated in most places in Tamil Nadu and the Andaman and Nicobar Islands, not just by the government, but also by international and other relief and voluntary agencies. Most temporary and intermediate housing shelters were built with poor and inadequate materials, and without consideration for space, location, size, sanitation, security and culture.

The building of structures without consideration for the elements of the human right to adequate housing in order to merely meet an emergency need, proved to be counterproductive while causing further deprivation.

While temporary housing in Tamil Nadu was built of a material called "tar sheeting", in the Andaman and Nicobar Islands tin was used for "intermediate" shelters intended to last for up to two years. In both regions, the materials trapped heat making the shelters completely uninhabitable while limiting ventilation.

Survivors in Tamil Nadu referred to the tar sheet structures as "cattle sheds" as they were completely unfit for human habitation, and violated the dignity and human rights of men, women and children. They complained that the smell of the tar was so nauseating that they could not enter the shelters initially. In some cases, the tar melted and dripped into homes. Due to the intense heat and humidity inside the temporary structures, many women and children had developed boils on their skin and scalps. Tar sheet housing proved to have little resistance against the rain and everywhere it was used, people complained of leaking roofs and decomposing structures. Several resettlement sites were built in low-lying areas and therefore, flooded with the slightest rain. Furthermore, women complained that the thin and flimsy tar sheets failed to provide privacy from the next shelter.

Read the case study given above and answer the following questions

- Q1. Imagine yourself to be a survivor of a natural disaster. What would be your basic necessities in such kind of situation?
- Q2. Do you think that disaster management planning by the government would ease these kind of situations? Chalk out an effective plan to provide basic necessities to survivors of various kinds of disasters.

Source: http://www.hic-sarp.org/news_show_user.php?id=42





CHAPTER 8: RIGHT TO KNOW OR RIGHT TO INFORMATION

The days of despots, dictators and kings are over. World over, democracies are in. People vote for the governments, which do not only to rule but work in the interest of the people. People want a nation free of hunger. They want a nation where each person has shelter and a roof over the head: they want a nation



सूचना का अधिकार **RIGHT TO INFORMATION**

where all children have access to education: they want a nation where the society is not divided on the basis of caste, creed and religion. Tagore had dreamt of a "Heaven of Freedom" where the mind was without fear; where the people would move about with their head held high.

In a democracy it is public opinion that helps political parties to get elected to power and form the government. It is important that the people should have adequate information before they formulate of their opinion. Without information, citizens cannot make the right choices, whether it is about electing their leaders or participating

in the decision -making process. The right to access information has been considered as a part of the freedom of expression under Article 19 of the International Covenant on Civil and Political Rights (ICCPR). It includes the right to seek as well as find information and gives the right to demand for such information. The free flow of right to information allows the people of a society, the media, regional, ethnic groups to express their views and protect their identity etc. To each Human Rights Treaty, there is an enforcement tool to safeguard the interest of the people and ensures that governments observes their commitments. It takes place in two ways: periodical reports from the government agencies and complaints from individuals. The Human Rights Committee and European Court of Human Rights work as a court to hear individual complaints. The right to transmit information of intentions is the most provable aspect in the Right to Information. It is the right of every citizen to get information on how any department or organ works.



The UN Human Rights Committee underlined that expression is a broad concept and not restricted to political, cultural or artistic expression, controversial, false or shocking expressions. Article 19 of the ICCPR challenges governments who do not wish to give information regarding their working and with hold information .The right to information makes it possible for the individuals to received the required information and take decisions.

New projects, rules and codifications have increased the number of countries with the freedom of information but many laws remain stagnant. The most significant development which has occurred in the recent years has taken place in Africa. Presently ten of the African countries have rules and regulations regarding the right to freedom of information. Many other countries of Africa are also following suit. Accessing information is pivotal for the people who live in wretched conditions. It leads to the empowerment of exercising economic -political and social rights leading to becoming, economically active and learning new skills.



Read and Reflect

"Freedom of information is a fundamental right and is the touchstone of all the freedoms to which the United Nations is consecrated,"

-United Nations' General Assembly, 1946.

The founding fathers of the Indian Republic termed India as the "steel frame of democracy". India is the biggest democracy in the world. People are the masters of a democracy. Therefore the people have the right to know about the functioning of the government. A transparent government strengthens the democratic system. The term transparency requires two principles: disclosure from the public agencies or government and the citizen's right to seek information. Different agencies are working on the issues of RTI. They have developed resolutions and declarations to promote these two principles.

According to **Commonwealth Human Rights Initiative (CHRI)** the right to information is itself a fundamental right, a solution and tool to reduce poverty as well as to stimulate development. In 2008 CHRI conducted an 'International Conference on the Right to Public Information' with 125 members from 40 countries representing international financial institutions, governments, private and public agencies, media, scholars etc. It adopted an 'Atlanta Declaration and plan of action for the Advancement of the Right of Access to Information'.

Read and Reflect

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

- Article 19, The International Covenant on Civil and Political Rights.

8.1 Countries that Follow RTI Act

More than 90 countries in the world have been implemented the Freedom of Information Act. The Freedom of Press Act that was implemented by Sweden is the first and is the oldest in the world. In USA it is known as the sunshine laws or open records to promote openness and publish information. Canada allows its citizens to access or they can demand records from the Federal government through the Access to Information Act. By 1990, the number of countries with the Freedom of Information laws increased to 13. A big step forward was the EU Charter of Fundamental Rights 2000, which covered both freedom of expression and the right to access to basic documents. German Federal Government passed a Freedom of Information law in 2005.

The Irish Freedom of Information Act was passed in 1998 and it brought a consequent relationship among the journalists, citizens, public bodies and different departments of the government. The main feature of the Irish Freedom of Information Act is that very few restrictions are placed on the information that is accessible to the public.

By 2010, more than 85 countries had national level RTI laws or regulations in force including the major developing countries like India and China.

Chronology of Freedom of Information Laws

- Sweden 1766
- Colombia 1888
- Finland 1951
- U.S.A 1966
- Denmark, Norway 1970
- France 1978
- Australia, New Zealand 1982
- Canada 1983

(source-www.podcast.cgg.gov.in)

8.2 National Perspective on RTI Act

We in India also took care of this when we adopted the Constitution. Article 19 of the Constitution guarantees the right to freedom of speech and expression. But there was no explicit provision stating that the people had the right to seek information. The government and its functionaries were wrapped in secrecy. The Official Secrets Act of 1923 - a colonial act - continued to deny access to the people to know about working of the government. It was strangulating. The people fought to





acquire their right to know. The Press Council of India worked very hard to pressure the government to provide an instrument to make the people real masters. The Supreme Court of India in its various judgements held that the right to freedom of speech and expression could not be enjoyed by the people unless they were empowered to receive the information regarding the dynamics of the government. Disclosure of information as regards the functioning of the government must be a rule and secrecy an exception. International pressure continued to have some effect on the need to have a specific law to cater to the fundamental human right leading to insight into the functioning of the government. In fact, as a party to the International Covenant on Civil and Political Rights, we were under an international obligation to effectively guarantee the right to information to the people. The strengthening of democratic tendencies worldwide along with liberalization as well as globalization strengthened the RTI movement and the result was Right to Information Act, 2005. Its enactment guaranteed the right to information to the citizens. *"By one fell stroke, under the Act, the maze of procedures and official barriers that had previously impeded information, has been swept aside. The citizens and information seekers have, subject to a few exceptions, an overriding right to be given information on the matters in possession of state and public agencies that are covered by the Act".....said Justice S. Ravindra Bhat. The veil of secrecy was over.*



RTI Legislations - A Comparison

Table 2: India vs Developed Nations

Country	Sweden	UK	US	India
Constitutional Protection	Protected	Not Protected	Not Protected	Protected (by interpreting)
Legislation	Freedom of the Press Act 1766	FOI Act 2000	FOI Act 1966	RTI 2005
Right of Access	Not limited by nationality or residence	Not limited by nationality or residence	Not limited by nationality or residence. But with exceptions	Limited only to citizens
Procedural Guarantees	Personal details of the applicant + reasons for request.	Personal details of the applicant + description of the information desired	Personal details of the applicant + description of the information desired	Only contact details required
	No specific timelines, requests dealt quickly and promptly	Has a longer set of time limits	Special time limits apply to cases of compelling need	48 hour time limit applies to protect life or liberty
	No mention about transfer of requests or consultation with third parties	Direct transfers of request are permitted	No mention about transfer of requests or consultation with third parties. In practice, transfer of requests is common	Allow transfers of request



	Inspection of document provided free of charge. Rates apply when copies exceed nine pages	Contains two separate systems for fees, one for ordinary request and another for more complicated requests	Contains provisions relating to fees, distinguishing between commercial, educational or scientific institutions, and other requesters	Access upon payment of fee, including for information provided in electronic format. No fee for BPL
	When information refused, notice sent giving reasons	When information refused, notice sent giving reasons	Refusal notice includes name of the deciding official, quantity of information denied	When information refused, notice sent giving reasons and how to lodge an appeal
Duty to Publish	No obligation to publish. In practice, information provided via websites	No information regarding publication	Certain information published in the Federal Register, while others available for inspection	Extensive rules on proactive or routine publication and regular updates
Exception	Unique exception - relating preservation of animal/plant species	Contain rare or peculiar exceptions relating to the royal family	Contain rare or peculiar exceptions - relating to information about oil wells	Do contain rare or peculiar exceptions - information which would incite offence

Source-http://www.cuts-international.org/cart/pdf/Analysing_the_Right_to_Information_Act_in_India.pdf

RTI Legislations - A Comparison				
Table 3: India vs South Asia				
Country	Bangladesh	Nepal	Pakistan	India
Constitutional Protection	Protected (by interpreting)	Protected	Protected	Protected (by interpreting)
Legislation	RTI Act, 2009	RTI Act, 2007	FOI Ordinance, 2002	RTI, 2005
Information about private bodies	Private organisation running on foreign or government funding/exchequer; organisation undertaking public functions under contract with government or public organisation	Body receiving grants from the government; NGO running on foreign or government funding or international organisation	No provisions	Body owned, controlled or substantially financed and NGO funded directly or indirectly by the government; private bodies regulated by public authorities
Proactive Disclosure	Too limited. Allows only four kinds of information voluntarily	Provides for 12 kinds of information voluntarily	Too limited. Provides only five kinds of information voluntarily	Provides for 17 kinds of information voluntarily
Exemptions	20 exemptions	5 categories of exemption	4 categories of exemption + 9 exemptions related to the type of record. 5 additional grounds for refusal	10 exemptions + 1 additional ground for refusal (infringes copyright)
Public Interest Disclosure	No provision	No provision	No public interest override. Government can refuse to disclose in public interest.	Exempted information's can be disclosed if public interest outweighs harm to protected interests



Fee Exceptions	Government in consultation with ICs may exempt from paying fee	No exemption	Fee as it may be prescribed but with aim of providing information promptly and at the lowest reasonable cost	Exempted for those below poverty line. Also free if the public authority fails to comply with time limits
Urgent Request	Relating to life and death, arrest and release from jail. Within 24 hours	Relating to defence of human life. Within 24 hour	No Provision	Relating to life and liberty of a person. Within 48 hours.
Protection for Whistle-blowers	No protection to whistle blowers. Protection to officials for anything done in good faith under the Act	Partial protection provided	No protection to whistle blowers. Protection to officials for anything done in good faith under the Act	No protection to whistle blowers. Protection to officials for anything done in good faith under the Act. However, the Public Interest Disclosure (Protection of Informers) Bill 2010 is before the Parliament.

Source-http://www.cuts-international.org/cart/pdf/Analysing_the_Right_to_Information_Act_in_India.pdf

8.3 RTI Foundation of India

The preamble of the RTI Act gives information to provide transparency to the poorest people of our country. It should be a helpful weapon to fight against exploitation. Today most of the youth of our country uses the Internet. They get information about job vacancies and need not bribe to get jobs. Even many people in the villages have begun to use Internet effectively and can bring freedom to their lives. We can use this technology to empower ourselves and motivate others. This Act allows people to get information without requiring explaining of the reason why they want this information. In this way, with this tool, anybody can fight against corruption. We have the ability to prevent whatever happens or disturbs us. All we need is to know how to write and to spend INR10.

What is Information?

Any form of material can be considered as information. It includes reports samples, circulars, e-mail, press releases, opinions or any data material in electronic form, tapes, videos etc. The applicant is not required to give any personal details about his family or job etc. If the person is from below poverty line (BPL) they are not required to pay the fee. Just as information is a threat to absolutism, secrecy weakens democracy. In India the Freedom of Bill was introduced in the Parliament in 2002. It came into existence in the year 2005, as an end to the unscrupulous inaccessible information system.

8.4 Right to Information movement in India

Genesis of RTI in India

The RTI movement was first started in Rajasthan by the Mazdoor

Logo

A very simple and iconic logo.

A sheet of paper with information on it, and the authority's figure behind it. It provides the information.



This represents the two key stakeholders in the process of sharing information under the RTI Act.

The lines of information on the sheet of paper are rendered in a manner that makes it look transparent, showing through the form of 'i' from behind.

The solid form of 'i' is a very simplistic portrayal of the human form and can also be related to the 'I' for information.

The bright blue colour stands for transparency and purity (free from malpractices) of process.



Kisan Shakti Sanghathan (MKSS), an organization founded by Aruna Roy, an IAS officer who left her job to actively involve herself in this movement in 1990. In early 1990s the famous Mazdoor Kisan Shakti Sanghathan (MKSS) an NGO located in Rajasthan began a movement to bring transparency to village financial accounts. The MKSS declared a prolonged struggle for the access to the records of expenditure at the local level on the construction of schools, dispensaries small dams and community centers. The villagers knew that the funds had been misused because the school buildings were roofless as well as without walls, dams were incomplete, dispensaries and community centers did not have doors or windows. The **Mazdoor Kisan Shakti Sanghathan (MKSS)** led the people to ask for the copies of bills and vouchers of persons who had been paid wages mentioned in the list. Initially, the Chief Minister and the government officials had given an assurance that they would be provided with the information but they did not adhere. Ultimately the MKSS could manage to get some information on it. This information was then cross-checked at *Jan Sunwais* (public hearings) against actual testimonies of workers. The success of the MKSS became a source of inspiration for activists in other parts of India and led to a broader discourse on the Right to Information in India.

Read and Reflect

Aruna Roy (born 26 June 1946) is an Indian political and social activist who founded and heads the Mazdoor Kisan Shakti Sanghathan ("Workers and Peasants Strength Union"). She is best known as a prominent leader of the Right to Information movement through the campaign which led to the enactment of the Right to Information Act in 2005. She has also remained a member of the National Advisory Council.



Smt. Aruna Roy

The RTI Act aims to bring about greater transparency and efficiency in administration and eliminate corruption. It ensures public involvement in the process of decision-making.

This Act also shows the vital role of the citizens in sensitizing the parliament regarding the need to enact a law. The Right to Information is often called the Oxygen of Democracy. The Right to Information is beneficial to the government too. Openness and transparency in decision-making help in developing the people's trust in the government. The Right to Information Act, 2005 is one of the most important laws to be passed since Independence. The Indian Government passed the Right to Information Act in 2005, to give people access to official information. The Act sets down obligations on the State as well as Central Governments for its implementation and for setting up monitoring mechanisms.

Source- live.dbpedia.org/page/Aruna_Roy

8.4.1 Constitutional Provisions of RTI

The Constitution of India has guaranteed the Right to Information as a fundamental right, which guarantees provision of information for the protection of the right to life and liberty. Thus it has been included in Article 21. As information is necessary to formulate, express dissent or support opinions, on any matter, it is included in the Article 21.

Appropriate Government is one which is established, constituted, owned, controlled or financed by directly or indirect funds provided by:

- (i) Central Government or the Union territory administration.
- (ii) The State Government, the State Government.





- (iii) The Speaker of the House of the People or the Legislative Assembly of a State or a Union territory or the Chairman of the Legislative Council of a States.
- (iv) The Chief Justice of the Supreme Court
- (v) The Chief Justice of the High Court.
- (vi) The President or the Governor.
- (vii) The administrator appointed under article 239 of the Constitution.

8.4.2 Salient provisions of the Right to Information Act 2005

The Right to Information Bill was passed in the year 2004, but it was enforced on 21st June, 2005. This Act gives the provision to the citizens of India to access information from the public authorities. It therefore requires Public Authorities to maintain all records properly. They are also required to maintain their catalogues and indexes, which should be computerised, so that they can be accessed within a reasonable time through a network all over the country.

It also ensures that Public Authorities declare and publish the following:

1. Details of functions and duties of its organizations.
2. Details of powers as well as duties of its officers and employees.
3. Its decision making process and procedures.
4. The rules and regulations set up by it for discharging its functions.
5. Its statements regarding its documents.
6. Its rules, regulations, instructions, manuals and records.
7. The details of any arrangement done with representatives of public or public policies.
8. Details of boards, council, committees and other bodies set up for the public.
9. A directory containing details of its officers and employees
10. Monthly remuneration and compensation provided to its officers and employees.
11. Details of finance allocated to its agencies alongwith details of all plans, expenditures and disbursements.
12. Details of execution of subsidy programmes, alongwith money allocated and the details of beneficiaries.
13. Details of recipient of concession, permits or authorisation granted by it.
14. Particulars of information held by it in an electronic form.
15. Details of facilities for obtaining information by citizens.
16. Directory including designations and other details of all Public Information Officers.

Objectives of RTI Act

1. To set out a practical regime of right to information for citizens
2. To secure access to information under the control of public authorities
3. To promote transparency and accountability in the working of every public authority.
4. To increase citizens' awareness and ability to exercise their other rights.
5. To equip them to participate meaningfully in the development process.

Read and Reflect

Key Attributes of Good Governance

- Transparency
- Responsibility
- Accountability
- Participation and
- Responsiveness (to the needs of the people)

States which passed Right to Information laws were:

- Rajasthan, Karnataka 2000
- Delhi 2001
- Maharashtra, Assam 2002
- Madhya Pradesh 2003
- Jammu and Kashmir 2004

(source: www.podcast.cg.gov.in)



17. Other information prescribed; which should be updated every year.

Thus Public Authorities are obliged to publish all essential facts related to important policies and reasons for their administrative decisions. Every citizens of India has the Right to Information. It can be obtained by submitting a simple application with a nominal fee. Thereafter the public authority is bound to provide the information.

8.4.3 The Exceptions of RTI

Section 8 (1) of RTI provides details of conditions to be exempted from providing information, which are as follows:

- a. Any information affecting the Sovereignty and Integrity of the country.
- b. Information which is prohibited by the court.
- c. Privileges of Parliament or State Legislative
- d. Information affecting the commercial values, trade, intellectual prosperity or Competitive position of any individual.
- e. Information regarding judiciary relationship
- f. Information received from any foreign Government
- g. Information affecting the safety any individual.
- h. Records and information of Cabinet.
- i. Relevant information after the matter is closed.
- j. Information directly concerned with Income Tax
- k. Information endangering the security of the country.
- l. Information endangering the strategic, scientific and economic interest of the country.

But if information is of nature which should be disclosed to the Parliament, then it shall not be exempted.

Section 9 provides grounds for rejection to access world involve on infringement of copyright subsisting in person other than the state. But according to Section 10 of the act, even if request for access to information is rejected, it may be provided to that part of the record.

These and some other such assumptions are justifiable. Restrictions imposed by other legislatives are no hindrance in making public records available to citizens.

8.4.4 Central Information Commission

Section 12-14 of the RTI Act provide for setting up of Central Information Commission. The Commission is headed by the Chief Information Commissioner. Apart from him, the Commission comprises of a number o Information Commissioners whose number shall not exceed ten. Similarly, Section 15-18 provides for setting up of State Information Commission. These Commissions act as the Second Appellate Authority and also exercise supervision and monitoring powers over the functioning of Public Information Officers. During the course of their functioning these Commissions and particularly the Central Information Commission, have kept a strong vigil over the functioning of the administrative machinery related to the implementation of the Act. However, their performance has often been restricted by the ever increasing number of appeals and fluctuation in the actual number of Information Commissioners. This has resulted in increase in pendency as well as waiting time for hearing of appeals. As per the annual report of CIC for the year 2011-12, the number of appeals filed, was 15426 in 2008-09. It has increased to 33,922 in the year 2011-12. Although the disposal of appeals has also increased the rate of disposal has been slowly









declining. Presently, the time taken for an appeal to come up for hearing is between six months to about a year.

Table 1: Disposal of RTI Applications

Situation	Time limit for disposing the application
Information on normal course	30 days
Information concerning the life or liberty of a person	48 hours
Information if the application is received through APIO	5 days added to above time periods
If application received after transfer from another public authority: <ul style="list-style-type: none"> • In normal course • Information concerns the life or liberty of a person 	<ul style="list-style-type: none"> • Within 30 days of receipt by the concerned public authority • Within 48 hours of receipt by the concerned public authority
Supply of information by organisations specified in the second schedule: <ul style="list-style-type: none"> • If information relates to allegations of violation of human rights • If information relates to allegations of corruption 	<ul style="list-style-type: none"> • 45 days from receipt of application • Within 30 days of receipt of application
Information relating to third party who has treated it as confidential	Provided after following certain prescribed procedure given in the Act under Section II
Information where the applicant is asked to pay additional fee	Period between informing the applicant about additional fee and the payment of fee excluded for calculating the period of reply

Source: Right to Information Act, 2005

RTI Online

What can you file for?	Filing and Processing	Tracking	Satisfaction
 <p>Filing an RTI application gives you the authority to ask your questions for the government. We handle many different types of applications such as Passport delays, PF related, Life insurance, Land and Property, State and Central examinations, Defence Forces, State and Central banks, amongst others.</p>	 <p>We make it easy for you to file your RTI application. Provide your details and your query and let us do the rest. Your application is carefully scrutinized by our drafting team, we find the correct PIO address and only if we are satisfied by the end product, do we end up posting it to the designated address.</p>	 <p>We provide you with your own personal tracking number so you can track it till its delivery location. The tracking process is hassle free and incredibly easy to use. We at online RTI make it a point that your satisfaction remains paramount, and more importantly, your voice is heard by the government.</p>	 <p>We make it a point that your satisfaction remains paramount and your voice is heard by the government. From a swift drafting and review process to sending you a final draft for approval, we make sure that the application suits your needs, and you can make any final changes, if required.</p>

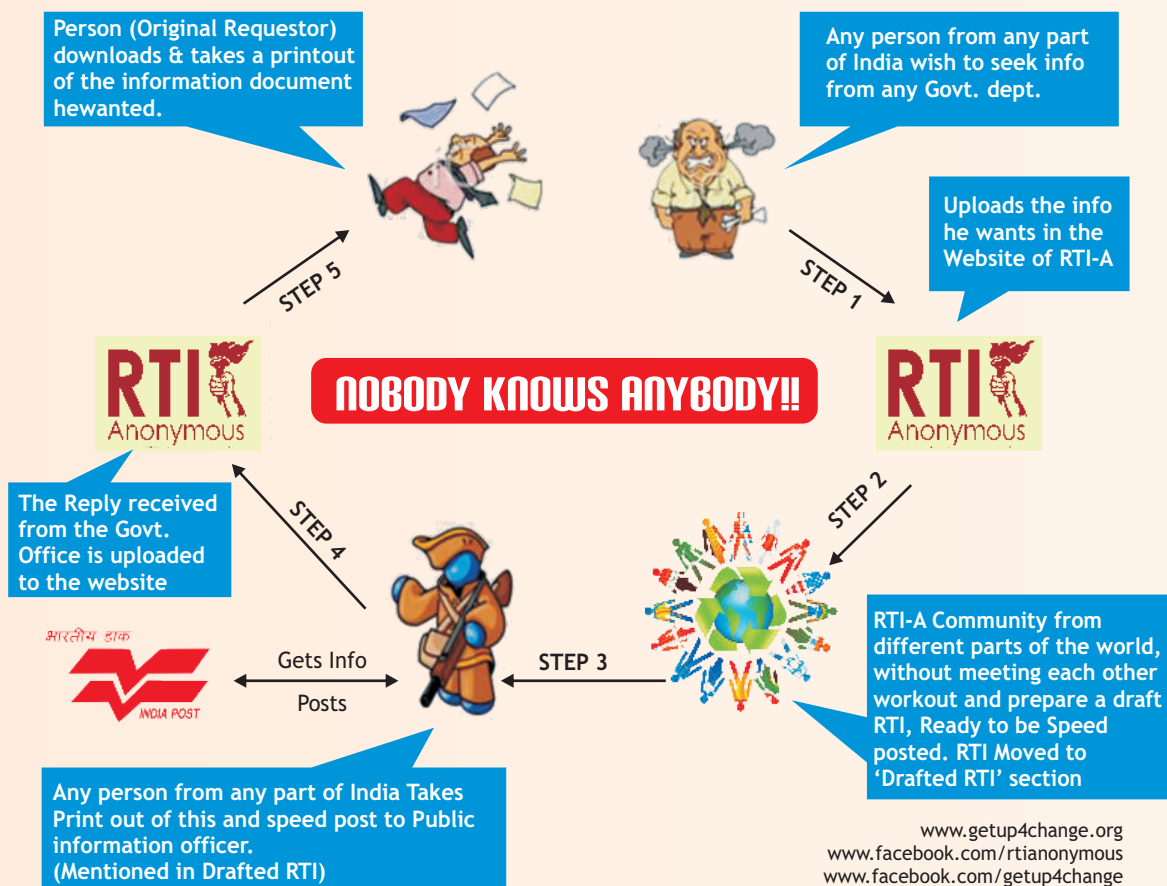
<http://www.rtinaction.com/>



8.4.5 Role of a Public Information Officer

The RTI Act has been established by the Government of India to make the lives of the people smooth, easy and truly democratic. It confers to each citizens of India to know how the tax payers' money is being spent. According to the RTI Act 2005, the citizens have the right to get information from the public authorities. To implement this or bring it into reality a Public Information Officer (PIO) plays a very important role. S/he has to study this Act carefully and understand the provisions. S/he has specific duties while dealing with this act. The PIO cannot create any information or interpret it. S/he is not supposed to give or furnish any replies to the applicant. S/he has a duty to give assistance to the persons who desire to obtain information. Within thirty days of the request, the PIO should provide the informations. If it concerns the freedom or life of a person, then the information should be provided within 48 hours. A PIO should prove that he is responsible and his actions are in good faith.

If the person is denied or refused to access to any information under the RTI Act, or he has been given false or misleading information he can file a complaint to the Central Information Commission(CIC). This Commission has the ultimate authority to implement the Act. Their functions include such as supervising and to act as an external independent authority. At the time of decision the CIC can take disciplinary actions against the PIO. This Commission is constituted by the Central Government. It includes one Chief Information Commissioner and 10 Information Commissioners appointed by the President of India. The disclosure of any information that is likely to affect the sovereignty and integrity of India, the security of the State, or friendly relations with foreign States, is punishable by this Act. Thus in the name of sovereignty, information is kept in secrecy.





Read and Reflect

Two days before the death anniversary of her husband Ashok Kamte, who was killed in the 26/11 attacks, Vinita Kamte has launched a book, 'To the Last Bullet'. The book, co-authored by a former journalist Vinita Deshmukh, was launched at the Taj Mahal Hotel, one of the sites of the attacks. The research and writing of the book took four months. It gives the details about the IPS officer's early days and his various postings and has made use of the Right to Information Act to investigate what actually transpired during the last few hours of his life.

"It's shocking that even her status of an IPS officer's wife did not allow her to get a copy of the post-mortem report of her husband.

It is only when a person shifts the coverage from personal to public that it benefits the larger public. She moved much beyond her role as a wife and without anger tried to probe with RTI as a weapon on what is wrong with the system," said RTI activist Aruna Roy.

Vinita Kamte, said that it was the RTI that finally gave her the right answers on the events and incidents that led to her husband's death. "I was in conflict if I should write about a system that my husband loved or write about a system that has so many shortcomings. Here were officers whom he respected all his life and who sat stonewalled to the information to the circumstances of his death. I needed the world to know about it, that these men did not act in haste," said Vinita about the idea behind the book.

Source: www.indian express.com

8.4.6 Merits of the Right to Information Act

1. It increases the accountability of the government.
2. It reduces corruption.
3. It increases the transparency and controls the work.
4. People get information about all public agencies.
5. It solves the complaints quickly.

8.4.7 Demerits of RTI Act

1. The major problem is the cold response for the citizens.
2. An average applicant has to wait more than seven months to be heard. Sometimes it reached to two years.
3. CIC (Central Information Commission) refuses to impose penalties and thus the government officers are not scared to deny the information.
4. Another main hindrance is the lack of knowledge and awareness.

8.5 The Role of RTI in Contemporary India

Every democratic country has admitted the need to give information to their citizens on a regular basis. The spirit of the RTI Act recognizes that in a democratic country it cannot be denied to both parties. For the last 60 years the citizen of our country have had to accept the treatment meted out to them by those in power. The preamble of the RTI highlights the empowerment of the citizens.

Read and Reflect

"The largest democratic nation, India has survived all vicissitudes, turbulences of all kinds over the last half century and more. In that context, the bringing into being of the RTI has been an important milestone. The Act that came into being last year assures every citizen the right to know what the citizen should, and throws open the system of governance to total transparency and therefore inescapable accountability"

-Dr. APJ Abdul Kalam

Inaugural Address at the National Convention on RTI 13-10-2006:
New Delhi



Every citizen now has been given the same ability to get information which was only accessible to the legislators. This should help the poorest of the country and is strong enough to attack corruption from its roots.

Corruption has reached even the highest strata in our country but with the help of the RTI we shall be able to sweep it away from the lowest level onwards.

In 2012 corruption in India declined but was not able to set up a system of good governance. The

RTI Act has the scope for healthy development and good governance. To implement the Act, the society should strengthen their knowledge as well as increase the accountability of the public bodies.

The activists would have to make a tremendous effort and oppose the history of corporate arrogance of established corporate giants and industrialists. It has been reported that a group of government departments and important post holders have exempted themselves from the reach of RTI through its loopholes. The public has raised its voice against the loop holes and drawbacks and have asked for the protection of the applicants. It also suggests maintenance of easily comprehensible and unambiguous records.



Read and Reflect

A detailed empirical research in 2007-08, focusing on 22,728 households living below the poverty line, found that they paid about 9000 million in bribes to basic and need based public services.

8.6 Conclusion

The main aim of the RTI is to advance as well as advocate unambiguity and accountability of the country's administrative system. Access to information is essential to this end and is recognised to be basal requisite to the running of a genuine democracy. The RTI empowers citizens to receive any required information from any public authority or organisation, thus making the authorities more accountable.

The discussion and debates on the effectiveness of the RTI shows that there is a consensus on the fact that implementation still needs to be worked upon to achieve its full potential.

It is also necessary to educate the masses regarding the effective use of the Act.

Unit End Reflections

Comprehension Questions

1. What is RTI?
2. Why do we need the Right to Information?
3. 'Right to Information is not absolute'. Explain with examples
4. Describe the development of RTI Act in India.
5. Elaborate the salient features of Right to Information Act 2005 of India.





6. Discuss the merits and demerits of the RTI Act of India.
7. Write the importance of MKSS movement in India.
8. Describe the process of filing on RTI.
9. Describe the role of Central Information Commissioner (CIC) in implementation of the provision of RTI Act of India.
10. You have applied for a passport for two months back and are still awaiting for a call or some correspondence from the passport office. In the mean time you have persistently calling the authorities and have now decided to file an RTI online. Mention the steps you will follow for the same.

Case Studies

Case Study 1

Mr. Sharma lives in Delhi and has a ration card on which he is able to procure sugar, rice, cooking oil and wheat at a fair prices shop through the Public Delivery System (PDS)

For the last three months he has not been able to get sugar and rice on the grounds that there was scarcity of supply of items.

Finally fed up after many visits, Mr. Sharma decided to complain to the Food and Civil Supplies Department. They said that he should complain consumer forum.

Finally, Mr. Sharma got in touch with the PIO and asked for details of the quantity of items provided by the government for distribution through this ration shop.

Answer the following questions

1. How can the PIO help Mr. Sharma?
2. What are the remedies available to Mr. Sharma under the RTI Act 2005?
3. What should be the steps Mr. Sharma takes for redressal of his problem?
4. Find out the criteria to get ration card
5. Visit a nearby Fair price shop in your group. Find the difference in cost of sugar, wheat, cooking oil and rice in the shop and under the PDS system. For your knowledge, find out the system in the shop.

Ask the shopkeeper the following questions:-

1. Does your shop sell groceries under the PDS system?
2. Do people without ration cards come to your shop to buy groceries?
3. How often do you fail to deliver groceries under the PDS system due to shortages?

Case Study 2

Anita has enrolled for the P.G. Diploma in Management offered by XPDMI Institute affiliated to a University, which receives funds from the University Grants Commission. The final examination for the students in their second year is conducted by the University, even though the mid-term exams are the responsibility of the Institute - which is a privately funded entity. The institute has to submit all relevant records about the mid-term examinations to the University. Anita wants to know about the norms laid down for evaluating the answer sheets of one of her mid-term examination papers and submits an RTI application to the Principal. The Management tells her that the Institute is a private entity and is not bound by RTI Act, 2005.

A friend suggests that she should apply to the PIO of the University and that there is a chance that she



might get the relevant information. The friend also suggests that she should first find out if the information she is looking for is disclosed proactively by the University.

1. Is Anita's friend's advice correct? What provisions of the RTI Act, 2005 apply? Answer in your own words
2. Can the PIO reject Anita's application on the grounds that even though the information is held by the University, it cannot be given since it pertains to a private entity? Give reasons in support of your answer.
3. Should the Appellate Authority notify the husband before taking a decision? Justify your answer in the context of stipulations of the `RTI Act, 2005`.
4. Should the Appellate Authority find the reason for asking information in such cases? What does the `RTI Act, 2005` say about this?

source: right-to-information-act-2005.blogspot.in/2010_11_01_archive.html

Case Study 3

After the completion of all the bidding formalities and award of a contract, one of the bidder felt aggrieved, thinking that his tender had been disqualified arbitrarily by the city's Urban Development Authority. He filed a request under the `RTI Act, 2005` and asked for the details of the tender evaluation procedure. The PIO denied the information saying that tender evaluation and related decision making processes are confidential and cannot be disclosed.

- (a) Is the PIO justified in this decision? Why? Answer in your own words.
- (b) In the appeal, the complainant brought to the notice of the Information Commission that the PA has been unfair in the selection of the tender. Should the tender process have been transparent or is it that the decision / discretion of the concerned authority cannot be subjected to scrutiny? Cite relevant provisions of the `RTI Act, 2005` in support of your answer.

Source- right-to-information-act-2005.blogspot.in/2010_11_01_archive.html

Case Study 4

Ms. Prasanna complained about an illegal unauthorized construction on her property to the Municipal Corporation, Kottayam, but there was no response on her complaint. She decided to enquire about what action was taken on her complaint and / or whether she needs to make a representation to another authority to get her petition heard and resolved. To her dismay, however, she found out that the Corporation had not disclosed / displayed the name of the PIO concerned. Nobody in the Corporation knew who the PIO was.

- (a) What step(s) should Ms. Prasanna take in the exercise of her right to information so as to get the information she is looking for?
- (b) Where do you think has the Public Authority concerned erred with respect to compliance with the provision(s) of the `RTI Act, 2005`? What action is liable to be taken against the PA and by whom?

Source- right-to-information-act-2005.blogspot.in/2010_11_01_archive.html





CHAPTER 9: HUMAN RIGHTS IN CONFLICT AND POST-CONFLICT SITUATIONS

Armed conflicts pose the most serious threat to international peace and security in the contemporary world. These occur not only between various nations but also within the boundaries of individual nations. Infringement of human rights during internal conflicts often leads to serious humanitarian emergencies and have resulted in millions of deaths in the past. Frequent armed conflicts result in state fragmentation, violation of local and international laws, and loss in effectiveness of the legal structure and traditional authorities. These also deprive the common people of basic facilities of food, clean water and health services. Consequently, armed conflicts render millions of people homeless thereby leading to their forced dislocation in large numbers.

The devastation and suffering caused by conflicts is visible in the large number of deaths as well as in the heinous abuse of the fundamental rights during armed conflicts. Basic human rights are impinged due to large scale massacres, attacks on civilians, restriction of freedom of movement, forced relocation, denial of asylum, prohibition to return to one's homeland, starvation, detention and torture of prisoners. Denial of basic rights for food, housing and respect for life, discrimination and exclusion from decision-making processes of society are the root causes of many crises today. Armed conflicts and terrorism have been very common in the recent years throughout the world, especially in countries like Sri Lanka, Egypt, Syria, Iraq, Pakistan, Somalia, Libya, Afghanistan, India etc. These conflicts have resulted in the death of thousands of men, women and children.

Armed conflicts pose a grievous threat to the socio-political, economic and civil rights, which are subverted due to the collapse of infrastructure and civic institutions. Instances where women and girls are abused by warring groups and boys abducted to serve as soldiers are rampant. Several civilians connected with conflicts, especially the ones who are detained, disappear each year. They are usually killed and disposed off secretly, thereby causing grievous suffering to many families. In addition, numerous people are imprisoned and tortured. They are either never brought to trial or even if they are, such trials are unjust. During the course of conflicts, homes, schools and hospitals are deliberately destroyed. Entrusted convoys, who try to assist civilians by providing humanitarian aid, are attacked to ensure that they do not reach the needy.

The need to protect persons and property during armed conflict and to restrict the methods of warfare has culminated in the development of the International humanitarian law. International humanitarian law includes provisions of the Geneva Conventions, the Hague Conventions, customary international law (general and consistent practices of State that have been accepted as law, sans any formal treaty). In principle, it has emerged from two main sources: the Law of Geneva - law to Protect the People during war and the Law of The Hague - law to regulate the war proper / warfare.

Implementation of these laws requires support from an agency dedicated to the purpose of upholding the dignity of individuals the world over. The Red Cross, formally known as the International Red Cross and Red Crescent Movement, is one of the first international organisations developed for humanitarian work related to international and internal armed conflicts.

International humanitarian law is heavily drawn from by the UN Security Council while framing resolutions, by the United Nations Human Rights Council in its discussions, by Governments during diplomatic discussions, by the paramilitary for training of soldiers, in reports of non-governmental organisations and in political pamphlets of opposition movements. It is the document most referred to during armed conflicts by rebels, politicians, diplomats, activists, demonstrators and journalists alike.

In the recent years international organisations like the UN General Assembly and the Commission on Human Rights and the Human Rights Council have ensured that the parties involved in armed conflicts are bound by legal obligations to protect the basic rights of people. The International human rights law and



the International humanitarian laws, both in their distinct ways, guarantee the protection of human rights to all without any discrimination between non-combatants (civilians) and active combatants.

9.1 What is Conflict?

Conflict can be defined as a state of dispute or fight arising between two or more factions owing to difference in beliefs, or contention over limited resources, wherein the opposing factions clash against each other with the objective to uphold their ethos and interests.

Do Human Right violations cause conflicts?

a. Violations of Economic and Social Rights lead to Conflicts

Economic and Social Rights, when greatly violated, often lead to conflicts. This occurs especially in cases of absolute and relative poverty. Absolute poverty refers to the state in which individuals are deprived of basic subsistence rights related to adequate nutrition, water, shelter, sanitation, education, and healthcare. Relative poverty refers to the state in which individuals or groups constantly face inequalities in the economic and social arena.

Both absolute and relative poverties generate grievances that lead to frustration, anger and unrest among people and ultimately culminate in conflict. Individuals suffering poverty are usually deprived of the basic rights of adequate food, water, and shelter. Their life becomes so miserable that they begin protesting, often in a violent manner, against their government or other power-holders, for redistribution of wealth and in an effort to retain their dignity, they become more miserable. The authorities retaliate by trying the utmost to curb such a rebellion, thereby resulting in conflicts. Moreover, poverty and deprivations render people more vulnerable to be instigated against the authorities by third parties with their own vendetta, hence causing serious disagreement in the region.

Although equality and non-discrimination are the basic tenets of International law for human, millions of people all around the world are still deprived of social and economic rights. Alarming this has increased conflicts all over the world. According to the studies of *Human Development Index (HDI)*, most countries in the world have experienced at least one year of internal conflict or war in between the years 1990 and 2003.

Read and Reflect

Human Development Index

Human Development Index is a composite measure of a nation's achievements in the sphere of human development of its citizens, within a period of time. The measure of the degree of human development is concluded on the basis of three factors:

- The ability to lead a healthy long life (measured by life expectancy during birth);
- Educational Achievement (measured by the gross enrollment ratio in the primary, secondary and tertiary schools and also the adult literacy rate);
- A dignified standard of living (measured by GDP per capita in Purchasing Power Parity expressed in US\$ [PPP])

HDI indicators do not differentiate between absolute and relative poverty, but are reasonable approximations of a State's respect for social and economic rights.

b. Discrimination causes Conflicts

Discrimination effected by a State is considered to be a violation of human rights by every human right instrument. It is one of the main factors that lead to conflicts. Inequalities arise





due to discrimination. This further triggers acute grievances amongst the groups being discriminated, which ultimately lead to conflicts and acts of violence. For example, the discrimination between the whites and the Africans sparked political mobilization and civil violence during the civil rights era in South America.

Discrimination is one of the main factors leading to conflicts because it transforms inequalities into antagonistic group identities. When various individuals face similar kind of discrimination, powerful collective grievances emerge. This inimitably facilitates in the formation of antagonistic groups, which may lead to collective action (that may be violent) to fight against discrimination. Many times discrimination is organized along ethnic lines leading to ethnic conflicts. It has been observed that ethnic conflict is the key factor in the development of modern State discrimination. This is because ethnic groups often struggle to overtake the key State resources like legislation, territory, national symbols, physical security, social security, political representation, and taxation. In addition to this, the State allocates benefits unequally, such as access to jobs, education, contracts, licenses and subsidies. State discrimination based on any one of these factors tends to develop grievances, which have a greater potential for violence.

From the human rights perspective, discrimination violates the basic human right of equal access to resources. Yet there is a positive side of preferential treatment too. Group benefits provided by States sometimes may redress historical injustices or may provide peaceful alternatives to conflict. Therefore in certain situations group benefits may be beneficial. Social justice and human right advocates do not object to preferential treatment in certain situations, such as in the case of preferential treatment to minorities, all over the world.

c. **Violations of Civil and Political Rights cause Internal Conflict**

The importance of socio-economic factors cannot be denied but intellectuals claim that it is difficult to identify one or more socio-economic factors solely capable of motivating an internal conflict, as various social groups in a society rarely have a homogenous social base. On the other hand it has been observed that violation of political rights have led to serious internal conflicts and have triggered several revolutions. Therefore, while socio-economic conditions rarely trigger violent conflict on their own, violations of personal integrity or security rights, such as indiscriminate killings, systematic torture, disappearances, or wide-scale imprisonment may lead to serious internal conflicts.

It has been observed that the main factors leading to revolutionary movements are curtailing political opportunities or other forms of State repression. In cases when the families and friends of ordinary people become the targets of violent repression and they are unable to find other means of political expression, they join and support revolutionary movements available to them.

Thus although individuals and groups may unwillingly tolerate economic inequality and discrimination for years, they are more likely to respond with violence against State repression. Therefore State repression is one of the main factors that may lead to internal conflicts because it can transform latent grievances into active antagonisms, providing the persecuted with strong motivations for violence. Personal integrity rights are not only violated by the Government, but may also be triggered by non-state armed groups by making extreme demands or by using violence. This behaviour of such non-state groups may invite government repression and may lead to conflict.

Read and Respond

Have you heard of the term 'non-state armed groups'? Discuss any 4 or 6 of them. Can you identify some of the recent incidents involving non-state armed group?



9.1.1 International Armed Conflicts

International Armed Conflicts involve different States. These occur when one or more State(s) resort to deploying their arms against another State, and may vary with regards to the reasons or the intensity of confrontation. Cases of violent decolonization are also considered to be International Armed Conflicts, as these involve two different countries - the colonizer nation and the colonized nation. Often this distinction is always not applicable. Thus in the international arena the captured freedom fighters of 'wars of national liberations' are granted the status of 'prisoners of war'.

It was observed that the number of internal armed conflicts increased drastically during the Cold War but declined thereafter due to reduction in flow of military aid to the governments as well as opposition movements. In spite of this, several enormously destructive conflicts are still reigning all over the world and several new wars may soon erupt. The worst thing about conflicts is that even after they are resolved, their painful after-effects linger on due to distorted economies, devastated health care systems, and corrupt or ill-equipped governing structures. Although the numbers of conflicts have certainly decreased as compared to the previous decades, there has been a rise in political violence all over the world.

9.1.2 Non-International or Internal Armed Conflicts

Internal Armed Conflicts are armed confrontations between organised groups, mostly governmental forces and non-governmental armed groups, within the same State or nation. For any armed confrontation within a country to be classified as Internal Armed Conflict, it must reach a minimum level of intensity and the parties involved in the confrontation must show a minimum level of organisation.

One of the most accepted definitions of internal armed conflict comes from the Peace Research Institute, Oslo and its research partner, the Uppsala Conflict Data Program. It defines '*internal conflict*' as a "contested incompatibility" between the Government of a State and organised opposition group(s) regarding government or territory, "*where the use of armed force between the parties results in at least 25 battle-related deaths per year, civilian and military*". It further extends that such intrastate conflicts of larger magnitude, which result in at least 1,000 battle-related deaths per year, are termed as 'internal wars' or civil wars. It is important to note that war-related deaths from disease, hunger, and displacement are not included in this calculus of "battle-related deaths", although these indirect conflict deaths are often greater than those directly caused by the violence.

Read and Reflect

Six months ago, 55 year-old Misho was contemplating an early retirement. Today, all she wants is a roof over her head. She is one of the tens of thousands of people whose lives were uprooted when intercommunal violence broke out in western Myanmar's Rakhine state in June. "I was cooking in the afternoon when people started shouting 'Fire! Fire!'," she recalls of that fateful day, "I ran out without slippers and cut my feet in a field that had broken glass. We spent the night in a mosque. I thought I was going to die of fright."

Overnight, the Muslim widow lost her eight-year job as a cook and cleaner with a local Rakhine family. She also lost the food stall she ran on the side, and the egg-laying chickens she raised. Her worldly possessions now consist of a blanket and sleeping mat, while home is a tent she shares with her daughter in the Chaung camp on the outskirts of the State capital, Sittwe.

"It's cold at night and I don't have an extra set of clothes," Misho says, before acknowledging, "we





were lucky to come here early, because later there was no more space."

Recent arrivals include those who fled renewed unrest in October as well as displaced people who had been living with host families that could no longer sustain them. Those who don't fit into existing camps have been erecting makeshift shelters by the side of the road.

As the lead organisation for protection, shelter, camp coordination and camp management under the interagency response to this emergency, UNHCR has been working with the government to find suitable land to set up tents for these groups. "The first priority is to make sure there is shelter for everyone," says Maeve Murphy, who heads UNHCR's office in Sittwe. "And as camps are being set up, we work with the authorities to try and make sure they adhere to international standards particularly from the shelter perspective."

In addition to the tented camps around Sittwe, UNHCR is also building 263 temporary shelters this year using bamboo walls and corrugated iron roofs. Each longhouse-style shelter can accommodate eight families. Kyashla, 58, the camp administrator at HpweYarKone camp, lives in a government built long house with 20 of his family members. While the shelter is adequate, other service are lacking in this location that is 45 minutes drive from Sittwe. He wishes food rations could be distributed closer to the camp and laments the fact that his family has not eaten meat or fish since June.

The women in this camp say they need proper bathing areas, hygiene materials, and cooking pots which they're using communally at the moment. Noting that some staff working for NGOs are hesitant to work in certain locations amid continuing communal tensions, UNHCR's Murphy said, "We're continually advocating for better water sources, more sanitation facilities with individual bathing houses for women and for mobile clinics to provide health care."

In another longhouse-style camp called Ma GyiMyaing, the basic services are in place but 61-year old Ngine Saw Htet is still losing sleep. He mourns over his charred house, where only four pillars remain, and the loss of his battery charging shop that drew both Muslim and indigenous Rakhine customers. "The first 10 days I couldn't sleep," he said with furrowed brows. "Now I'm slowly recovering but I still feel afraid when it's quiet. And I worry about the future. I have no job, no income. With no financial support, I cannot start a business. My family is fully dependent on assistance."

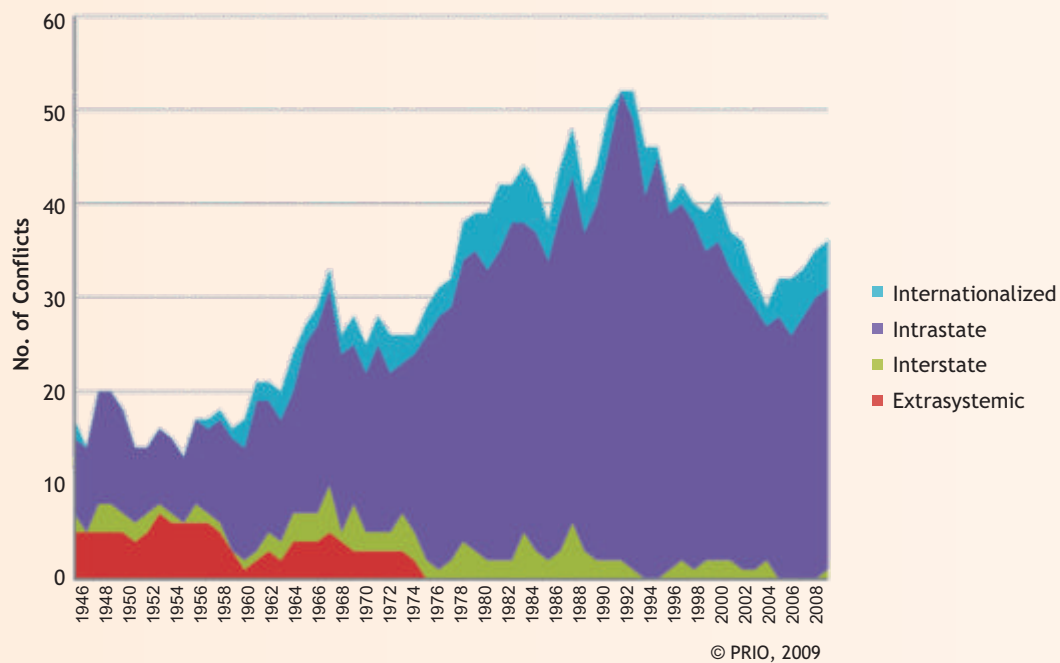
Over in The Chaung tented camp, Misho shares the same concerns. "I spend most of my time here praying," she says, "I pray that I can go home as soon as possible, that I can have a safe and proper house, that I can work again. I pray for peace with the Rakhine people, to live peacefully with my neighbors."

Source: UNHCR Global Report -2012





Conflicts by Type, 1946-2008



9.1.3 What is Protection?

Protection can be defined as the steps taken to ensure that the basic human rights are provided to individuals, as outlined by the relevant bodies of law, such as the International human rights law, the International humanitarian law and the Refugee law.

Protection of basic human rights should be viewed as:

- ❑ An objective;
- ❑ A legal responsibility; and
- ❑ An action

The objective of protection of basic human rights should include complete respect for the rights of all individuals as per the guidelines of the International law, without any form of differentiation. The protection of basic human rights should not only include rights for physical security and survival but also various other rights like the civil rights, political rights, right to freedom of movement, economic rights, social rights, cultural rights, right to education, right to health, etc. to ensure a good life.

It is the legal responsibility of the State and its agents to ensure the protection of basic human rights of the citizens. Even during armed conflicts, it is the duty of the State to protect the human rights of all parties involved in the conflict, without any form of discrimination. In spite of this, when the States and other authorities are unable or unwilling to fulfill their protection obligations; it is the duty of





the International human right organisations and other Humanitarian organisations to step in.

Protection of human rights should be viewed as an activity, because it can only be ensured through action, which is extremely necessary for the fulfilment of rights. The three basic types of activities that can be carried on consecutively for the protection of rights are:

- ❑ **Responsive:** to prevent or stop defiance of human rights
- ❑ **Restitutive:** to find remedies for violations, in a justified and lawful manner
- ❑ **Develop an atmosphere:** to inculcate respect for rights and legal rules

Why do we need to protect the rights of the forcibly displaced?

It is the liability of the State to protect the basic human rights of all its citizens. However, many a time nations are unable or unwilling to fulfil this liability and follow discriminatory policies that compel certain faction of their citizens to flee their homeland and find solace in a foreign nation. In such circumstances, when these refugees are denied protection by the government of their nation, the International human right organisations are obliged to provide them protection.

9.2 Worldwide Forcibly Displaced People

During World War I, a large number of people fled their homelands in search of refuge. The Governments of various countries responded to the needs of the refugees by drawing up international agreements and travel documents for the people affected. Later during World War II, the number of refugees all over the world increased drastically because millions of people were forcibly displaced, deported or resettled.

In the 20th century, the international community worked on the development of guidelines, laws and conventions for the protection of the human rights and in order to ameliorate the condition of the refugees. The first step in the direction was taken by the League of Nations in 1921. In 1951, the United Nations convened a conference in Geneva, wherein the *Convention Relating to the Status of Refugees* was adopted. This international treaty explicitly defines the categories of persons who qualify as refugees; elucidates on the legal protection, State assistance and social rights they are entitled to; and outlines the obligations of refugees towards the host countries. But the Refugee Convention of 1951 had its own limitations as it was designed to protect only the European refugees after the World War II. This was later amended by the Protocol of 1967 which expanded the scope of the protection of the human rights of refugees to the entire world.

These instruments further inspired many regional instruments in the future. Some of these regional instruments were the **1969 OAU Refugee Convention of Africa** and the **1984 Cartagena Declaration of Latin America**. This further led to the development of a common asylum system in the European Union. The **Convention of 1951** and the **Protocol of 1967** are still regarded as the cornerstone of refugee protection in the contemporary world.

9.2.1 Refugees

Refugees are people who are compelled to abandon their home countries to escape persecution, or other adverse political, religious, military situations. They must not be confused with the economic migrants who move their residence to better their prospective earnings or the internally displaced persons who due to persecution shift residence but remain within their State boundaries. Refugees are in such a predicament because they do not have support of their own State and very often it is their own State that is persecuting them. In such a scenario, they try to survive in other States despite the absence of any civic rights or legal way to earn a living.

The meaning of refugees has been defined in a number of ways from time to time but the increased



international concern for the plight of refugees has led to the development of a common definition of a refugee. The Refugee Convention of 1951 has defined refugee as a person who:

"Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country or return there because there is a fear of persecution..."

Source Country of Refugees	Main Countries of Asylum	Refugees
Afghanistan	Pakistan / Iran / Germany	2,586,200
Somalia	Kenya / Yemen / Ethiopia / UK / Djibouti	1,136,700
Iraq	Syria / Jordan / Germany / Iran	746,200
Syrian Arab Republic	Albania / Bosnia & Herzegovina / Macedonia / Turkey	729,000
Sudan	Chad / South Sudan / Ethiopia	568,900
Dem. Rep. of Congo	People's Rep. of Congo / Uganda / Rwanda / Burundi	509,300
Myanmar	Bangladesh / Thailand / Malaysia	415,400
Colombia	Ecuador / Venezuela / US	394,100
Viet Nam	China / Germany	336,900
Eritrea	Sudan / Ethiopia / Kenya	285,400

Ten Largest Groups among 15.4 Million Refugees in 2012

Outlined in Article 1A(2) of the Refugee Conventions, a refugee may be treated as such if the persecution is due to race, religion, nationality, particular social groups or political opinion where:

1. **Race** refers to the ethnic groups and social groups of common descent.
2. **Religion** includes groups of people who share common traditions, beliefs and practice the same religion.
3. **Nationality** refers to the citizenship of an individual. Persecution of ethnic, linguistic and cultural groups within a population also may be termed persecution based on nationality.
4. **Political Opinion** refers to ideas of individuals including opinions critical of government policies which are not tolerated by the authorities.
5. **Social group** includes people who have a common background and share similar habits or social status. This category often overlaps with persecution based on one of the other four grounds. It may include families of capitalists, landowners, entrepreneurs, non-governmental defence forces, etc.

9.2.2 Refugee Status: Criteria for the Provision

The 1951 UN Convention outlines the provisions to identify refugees. It clearly states that protection shall be provided to only those individuals who qualify under these criteria. It also defines the category of people to be excluded from refugee status. These include people who are suspected to:

- ❑ Be engaged in crimes related to war, destruction of peace, hurt humanity or involved in





serious non-political issues.

- ❑ Be engaged in activities which violate the principles of the United Nations.

Procedures Advocated for Determining the Refugee Status

The 1951 UN Convention has shouldered the responsibility of the protection of the rights of refugees in the various States. But it does not define the procedure of determining the refugee status. It allows for any individual or group assessment method to be adopted for this purpose, as long as the method is fair and efficient. To ensure a fair and efficient method for determining refugee status it would be extremely essential for the States to appoint a central authority for the job. This central authority should be equipped with knowledgeable experts, who would design a foolproof procedure for determining refugee status. Besides, the UNHCR is obliged to help the States in developing such procedures.

Moreover, the 1957 European Convention on Extradition guarantees the Principle of Non Refoulement, according to which no State (whether signatory of the 1957 European Convention and the 1967 Protocol Relating to the Status of Refugees, or not) can prevent anyone from seeking asylum in their territory and in no way can force them from returning to the territories where their freedom or life may be endangered.

9.2.3 Rights of Refugees

The Principle of Non Refoulement is one of the fundamentals outlined in the international law for the protection of refugees. Prevention of the coercive return of a refugee to the place where their freedom or life may be endangered is called 'non refoulement' (prohibition to return). This principle is laid out in Article 33 of the 1951 Convention Relating to the Status of Refugees. It clearly states that *"no State shall expel or return ('refouler' in French) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."*

Article 31 of the 1951 Refugee Convention further prohibits the host country from detaining the refugees in any way, even if they seek asylum illegally. This is because the detention may bring back memories of detention or torture experienced in the country from which they arrive. This may lead to emotional and psychological setback for the refugees. The provision also asserts that asylum seekers should not be detained even if they have committed crimes like presenting forged identity papers or destroying proofs of their travel documents.

Articles 12-30 of the Refugee Convention enumerate the rights guaranteed to individuals whose refugee status is validated, as under:

- ❑ The refugees are entitled to the issue of identity papers and travel documents in the host country, for travelling outside the host country.
- ❑ The refugees are entitled to the same treatment and rights that are given by the host country to its citizens. Some of the rights that refugees are entitled to are:
 - Right to pursue any religion or religious education
 - Right to access legal assistance and even courts in the host country
 - Right to pursue elementary education
 - Right to receive all available public facilities
 - Right to a secure life
 - Security of intellectual property, like inventions made by them or trades established by them



- Security of their intellectual, scientific and artistic work
- Right to a non discriminative taxation system
- Right to form or be part of trade unions
- Right to be a part of any non-political organisation
- Right to earn a livelihood
- Right to possess property
- Right to pursue any profession
- Right to self-employment
- Right to shelter or adequate housing
- Right to primary and higher education
- Right to reside in any part of the host country
- Right to freedom of movement within the host country

9.3 Internally Displaced Persons

Internally displaced persons (IDPs) are defined in the *UNHCR Guiding Principles of Internal Displacement*, as follows:

"Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disaster, and who have not crossed an internationally recognized State border."

According to the UNHCR Global Trends report, there were around 28.8 million IDPs and individuals in IDP-like situation dwelling in 26 countries by the end of 2012. Majority of these IDPs are found in Colombia, Syria, Congo, Sudan, Somalia and Iraq.

Internally displaced persons (IDPs) are recognized by two basic circumstances - **Involuntary Departure and Asylum within one's own country's territory**. IDPs are often forced to leave their homes due to adverse circumstances against their free will. This distinguishes them from migrants, who leave their homes of their free will in search of better opportunities. IDPs do not flee to other countries but seek asylum in some other part of their country, to escape the adverse circumstances. This distinguishes them from refugees, who also flee to escape adverse circumstances, but they seek asylum outside their nation.

It is essential to note that the definition of IDPs given under the *UNHCR Guiding Principles* is not a legal definition but is only a generalized one. It only describes the meaning of internal displacement and factors responsible for it, and in no way confers certain legal rights to them, as in the case of refugees. This is due to the fact that in spite of displacement, the IDPs being the citizens of the country are still entitled to the basic rights. Whereas the refugees had to be conferred a special legal status as they were not entitled to the basic rights guaranteed to the citizens in the foreign land, where they may have taken refuge.

The aforementioned definition outlines the main factors that may lead to internal displacement, such as violence, armed conflict, violation of basic human rights, natural disasters, etc. Thus the phrase "in particular", referred to in the definition explains that the list of reasons for displacement could be infinite; while the phrase "homes or places of habitual

Internal Displacement Monitoring Centre (IDMC) is a non-governmental humanitarian organisation that is the leading source of information and analysis on internal displacement.

Source: www.internal-displacement.org



residence" implies not only to houses of individuals but also to the land on which the livelihoods of people (such as nomads or pastoralists) would depend.

The intent of highlighting IDPs in the international circle is not to provide them with privileges over other groups but to help the world understand the risks they face such that corrective measures may be taken to secure the rights of IDPs. IDPs may face the risk of not being able to return to their places of origin due to violence, destruction of their homes, occupation of their homes by someone else, etc. They may also face the risk of not receiving protection from the authorities, or being forced to reside in an unsafe area. A few other risks faced by the internally displaced persons are:

- ❑ IDPs may be in the need of shelter due to loss of their houses. As a result they may sometimes be forced to live in crowded camps or settlements, where their security and rights may be violated.
- ❑ Due to displacement from their land and property, IDPs may lose their means of livelihood, which may lead to a poverty stricken life, marginalization in the society, exploitation and abuse.
- ❑ IDPs may lack the basic necessities such as adequate food, safe water, public facilities, education facilities and health facilities. This may lead to increased hunger, malnutrition and disease.
- ❑ Displacement may lead to broken families and community structures due to separation of family members. This may in turn lead to the abuse, sexual exploitation, forced labour and exploitation of separated and abandoned children, women, older people and disabled people.
- ❑ Important documents, especially identity proofs of IDPs often get lost, destroyed or may be confiscated by someone during the course of displacement. Lack of identity proofs limits the IDPs' access to the basic public facilities and may further increase the risk of harassment, exploitation and detention.
- ❑ Many a times IDPs also face the risk of marginalization, discrimination, hostility, abuse and exploitation in the areas where they seek asylum. Besides, they also face the risk from other IDPs due to competition over scarce resources.

Amelioration of Internally Displaced Persons

The duty of protecting the rights of IDPs rests first and foremost on the Central Authority of the Nation itself. While most States discharge this duty as an integral part of their aims and principles, there often are instances where the government of the State is unwilling or unable to protect the rights of the IDPs. In fact in many cases, the Government instead of helping the people, itself is found to be responsible for displacing them. In order to rectify such situations, the international human rights organisations do not overtake the responsibility of protecting the rights of IDPs from the State concerned. Instead the international organisations, through every possible means, reinforce national responsibility of the State towards the IDPs. For this, the approach followed is to render encouragement and support towards the States for fulfillment of responsibilities towards IDPs.

The Brookings Institution of the University of Bren has developed *A Framework for National Responsibility* that outlines twelve steps for the Governments of the States to address the issue of internal displacement in their country. These twelve steps are:

1. Restrain displacement and curtail its detrimental effects.
2. Raise national awareness with regards to disadvantages of displacement.
3. Maintain statistics regarding IDPs.



4. Provide trainings for raising awareness on rights of IDPs.
5. Develop laws for upholding the rights of IDPs.
6. Establish a National Policy for displacement within the Nation.
7. Denominate institutional focal point on IDPs.
8. Support the national human right organisations to respond to the needs of IDPs.
9. Include the IDPs in the major decision making processes for the Nation.
10. Encourage and develop long lasting solutions for IDPs.
11. Provide the required resources for eradication of the problems regarding internal displacement.
12. Work in collaboration with the international community to address the problem of IDPs.

Rights of Internally Displaced Persons

International human right organisations have not explicitly defined any special rights for the IDPs because being the citizens of the same country in which they seek asylum; they are entitled to all the rights of that country. However, the said organisations ensure that the internally displaced persons uphold their rights without any form of discrimination and are also provided protection by the three main bodies of International Law:

1. International Human Rights Law - *UN Declaration of Human Rights (UDHR)*, *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, *International Covenant on Civil and Political Rights (ICCPR)*
2. International Humanitarian Law, e.g. *Refugee Law-Law of Geneva*, *Law of the Hague*, *Refugee Law*
3. International Criminal Law

The greatest challenge faced by International Agencies, NGOs, and States regarding the IDPs, is to ascertain the needs, rights and protection risks of the displaced. The UNHCR Guiding Principles of Internal Displacement is resourceful in that as it elucidates the rights of the IDPs, the responsibilities of the States towards IDPs and the warranted international and regional approaches towards internal displacement. Though not legally binding on any nation, this indispensibly useful and often referred resource is instrumental in shaping national policies. The 2012 Kampala Convention, the first and the latest international treaty that provides protection and assistance to the IDPs in Africa, is a substantial step in this direction. More so, because the Convention covers displacement caused both by armed conflicts as well as environmental disasters.

Read and Reflect

In August 1947, Veera was a 20-year-old Hindu wife and mother, living in the village of Sheikupura (which is now in Pakistan, close to the Indian border). As Muslim fundamentalist hordes approached their home, her husband implored her to kill herself in order to prevent her abuse and defilement. When she refused, he threatened to kill her himself. He hit her and she fell unconscious. Thinking she was dead, her husband departed and the Muslim attackers who arrived left her alone also thinking she was dead.

When she woke up, she found both her husband and child were dead. Devastated, Veera moved to an ashram, where she spent the rest of her life.





9.4 Role of International Organisations in Protecting the Rights of the Displaced

A number of international organisations have been established and numerous provisions adopted for the protection of the rights of Refugees and IDPs all over the world. Some of the organisations working in this direction are:

United Nations High Commissioner for Refugees (UNHCR)

The United Nations High Commissioner for Refugees (UNHCR) was formulated in 1951 for the protection of the rights of the refugees. The foremost aim of the UNHCR is to ensure that people all over the world have the right to seek asylum in any safe nation during adverse conditions. It also aims to assure that they have the right to return home voluntarily. The UNHCR also ensures the promotion of just and effective refugee law all over the world. Recently the UNHCR has adopted another role for amelioration of refugees. In addition to the protection and the promotion of solutions, the UNHCR nowadays fulfils the additional role of coordinating material assistance for refugees, e.g. food, clothing, housing, and the like. The need for material assistance arose because majority of the refugees in the world took asylum in developing countries, who themselves were incapable of providing them material assistance. To assist the UNHCR in the resettlement of rejected asylum seekers and refugees, the *International Organisation of Migration* (IOM) has been formulated.



International Committee of the Red Cross (ICRC)

To assist and protect the victims of war neutrally, an independent humanitarian organisation known as the International Committee of the Red Cross (ICRC) has been functioning since 1863. Its presence is in more than 80 countries of the world. It provides rapid and efficient response to all humanitarian needs of people affected by armed conflict or by a natural disaster and perform due protection and assistance activities to alleviate their situation. It organizes a wide range of services for the victims of war in the form of food aid, medical assistance, visits to detainees, and reunion of family members separated during wars, etc. However since the ICRC was not entitled to provide protection and assistance to internally displaced people, they have provided limited help in this category. Due to the large scale experience of ICRC in the area of providing humanitarian assistance during crisis, the UN General Assembly have been requesting them to carry out humanitarian operations in several parts of the world.

9.4.1 International and Regional Protection Instruments for the Displaced

Over the years, several international legal instruments have been established internationally to protect the rights of the globally people displaced, such as declaration, conventions, protocols, optional protocols, and the like. These diplomatic terms have specific relevance in international law, which is quite distinct from the literal meaning of the words. Every international legal instrument is developed and drafted through a series of discussions and negotiations and are signed by the representatives of the various States, who agree to its terms. The States signing the treaty are obliged to abide by it. Various means are adopted by the States to show their consent towards the treaty-the most common means are ratification or accession. Ratification is the process of showing allegiance towards a new treaty as soon as it has been formulated. The treaty is ratified by



the States who have participated in its negotiation and formulation. Accession is the process of showing allegiance towards a treaty that has already been formulated. The states, who may not have participated in the discussions and negotiations during the formulation of the treaty, may at a later stage 'accede' to the treaty. A treaty becomes applicable only when a pre-determined number of countries have ratified or acceded to the treaty.

The States, at the time of signing the treaty, may make 'reservations' to one or more articles of the treaty, implying that these provisions would be either not abided or abided under modification in the country. Reservations put by a State may be opposed by other states and may have to be withdrawn at times. Once the treaty is ratified or acceded, it also becomes the responsibility of the States to ensure the effective implementation of the treaty in their country, by issuing decrees, amending existing laws or introducing new laws. Many international treaties develop a proper framework beforehand, to review the effective implementation of the treaty.

Some of the International and Regional Protection Instruments involved to alleviate the state of displaced people are as follows:

- ❑ **Universal Declaration of Human Rights**, Article 14 has recognized the right to seek refuge in any safe place during adverse conditions.
- ❑ **Geneva Convention (1949)** protects the rights of civilians during wars. It further reiterates that refugees should not be treated as "enemy aliens".
- ❑ **Convention relating to the Status of Refugees (1951)** was one of the first international documents to protect the basic rights of refugees. It outlined a set of rights which would bring refugees at par with the citizens of that state. It was the first document that stated that the problems of the refugees could be solved via international cooperation, including burden-sharing among the states.
- ❑ **International Covenant on Civil and Political Rights (1966)**, Articles 2, 12 and 13 state that the nations should guarantee the civil and political rights to all the individuals within their territory, without any differentiation. In addition to this, it also ensures that right to freedom of movement is given to all individuals and forbids coercive displacement of people.
- ❑ **Protocol relating to the Status of Refugees (1967)** extended the right to claim for refugee status to everyone and not only to Europeans, as was the custom..
- ❑ **Geneva Protocol-1 (1977)** further protects the rights of the victims of International armed conflicts. It states: *"Persons who, before the beginning of hostilities, were considered as stateless persons or refugees... shall be protected persons..., in all circumstances and without any adverse distinction."*
- ❑ **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)**, Article 3 (2) guarantees the right to displaced persons to seek refuge in any safe place during adverse conditions. It also prohibits forceful return of refugees back to the place where they fear persecution. This convention also established a monitoring body known as the Committee against Torture. This committee has outlined some basic principles

Read and Reflect

Declaration stands for a formal statement or oath that affirms the ethos and intents of the international community.

Convention stands for an international agreement or treaty.

Protocol stands for a treaty that supplements or adds to a pre-existing international treaty. Thus when Conventions undergo amendments, Protocols are formulated.

Optional Protocol stands for an amendment treaty that is legally binding in its own right, implying that it would hold good under international law even in absence of the pre-existing treaty it developed from.





regarding the prevention of expulsion of refugees in the host country

- ❑ **Convention on the Rights of the Child (1989)**, Article 22 directs that: *"States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee shall receive appropriate protection and humanitarian assistance in the enjoyment of rights.... States Parties shall provide cooperation in efforts to protect and assist such a child and to trace the parents or other members of the family of any refugee child for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child deprived of his or her family environment..."*
- ❑ **Declaration on the Elimination of Violence against Women (1993)** draws attention towards vulnerability of women refugees.
- ❑ **Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees** is regarded as the most essential tool for reference and correct interpretation of the rights of refugees by the humanitarian organisations and various governments of nations.
- ❑ **Guiding Principles on Internal Displacement:** Guiding Principles on Internal Displacement, is a document containing 30 recommendations, for upholding the rights of internally displaced persons. The Guiding Principles explain explicitly the meaning of internal displacement. These principles outline the major laws developed internationally, mainly by the international human rights law and international humanitarian law, together in one document. They explicitly explain the rights of IDPs, the obligation of the States and other authorities towards them, protection from displacement, protection during displacement, humanitarian assistance, and issues related to their return, resettlement and reintegration.

The Guiding Principles is not legally binding or compulsory to follow for any nation/organisation. It is an auxiliary document for those concerned with the issue of intra-state displacement. They provide a comprehensive definition for IDPs and lists out their core rights, which are:

- Rights related to physical protection and integrity the right to life, protection from physical abuse and torture
- Rights concerning the basic necessities of life the rights to adequate food, water and shelter and right to health)
- Rights concerning the various social, economic, and cultural issues the right to education and right to compensation of property
- Rights concerning the security of civil and political issues the right to individual documentation and right to participate in politics

The Guiding Principles also resolve various other needs and protection risks that usually arise during internal displacement, like separation from the family, loss of important documents related to identity, loss of property and issues regarding freedom of movement in the refugee camps or place where they seek asylum. The following services need to be rendered to IDPs during all phases of displacement, such as:

- Security from unlawful displacement during the pre-displacement phase.
- Security and assistance during the displacement phase.
- Durable solutions *after being displaced*, such as protection of basic rights, humanitarian



assistance, settlement of issues related to their return or local integration at the place of displacement and resettlement.

❑ **National Legislation on Internal Displacement:** It is the primary responsibility of the States to guarantee the protection of the rights of IDPs through national legislation. State are also obligated to ensure that these laws and policies are in accordance with the international law and in consistence with the State's international legal obligations, traditions and dispute resolution mechanisms. For this, the State requires necessary strategic framework and appropriate atmosphere to implement the provisions. Since the IDPs are citizens of the very country in territory of which they seek asylum, the generally applicable laws of the land apply to them thereby removing the need for a separate set of laws concerning a lot of subjects; yet specific legislation is required to address other subjects that explicitly concern the IDPs. Most importantly, resolving the grievances of the IDPs is warranted. Grievance redressal requires review/introduction of:

- **Generally applicable laws:** The law of the land and thus Constitution of a nation is the highest legal norm in this category. Usually the Constitutions do protect the rights of the IDPs but in case any of its provisions is detrimental or insufficient or liable to be misconstrued to harm the IDPs, due amendments should be brought in to rectify the loophole. Constitutional laws must be helpful to the IDPs in regaining lost personal documents, property, voting rights, civil rights, educational rights, etc. In addition, the specific laws designed for the protection of IDP's should be compatible with the Constitution. Lastly, the judicial interpretation of both these laws by the courts while resolving cases of the IDPs should be unbiased and fair.
- Specific laws designed for addressing the problems of IDPs can be of various kinds. Governments have developed laws for a particular phase of displacement, such as laws concerning resettlement and reintegration processes. On the other hand many governments have developed national laws on the issues related to IDP's. Majority of these laws are designed to resolve the issues concerning all the phases of displacement, such as those concerning the prevention of conflicts and disasters, as well as those providing solutions to issues related to displacement. The States must ensure that the laws developed for the IDPs are completely compatible with the Constitutional laws of the nation as well as with the International laws. Extra focus should be given to guarantee that the laws formulated neither segregate the IDPs in their own nation nor encroach upon the rights of the non-IDPs. Also, the States must develop a necessary framework to implement the IDP-specific laws successfully.

In addition to this, international humanitarian organisations must assist the States for the realization of the rights of the IDP's. They must also assure that the national laws and policies framed by the States are compatible with the International laws.

A Manual for Law and Policy Makers has been formulated by the United Nations to provide guidance on key elements for drawing up national legislation in consistence with the protection of the human rights of the IDPs.

9.5 Status of Children and Women Traumatized in Conflicts

Civilians or non-combatants have had to bear the most atrocious instantaneous and sustained consequences of armed conflicts all through history in every corner of the world. Over half of the victims of wars in 18th, 19th, 20th and early 21st Centuries were civilians. This detrimental impact but only continues to grow at the same pace with which evolving warfare technology and strategy combined with global socio-political situations continue to make it easier to reach civilians far and wide. One of the crucial reasons for this is that almost all of today's wars are fought within States





and not between them because of which civilian involvement in wars in the recent decades has shot up from 5% to 90% with children comprising of almost half this population. Secondly, in modern warfare, gender-based violence and military involvement of children have developed into gruesome yet crucial 'weapons of war'-that are effective in amplifying pathos and aggression in the name of religion and ethnicity! Thirdly, large numbers of civilians are able to participate in armed strife owing to the easy availability of light weapons under the liberal international arms trade. Moreover the ruthless barbarity of our current times leaves the most sardonic and seasoned of observers confused. The most vulnerable and thereby the worst conflict-affected non-combatants are children and women, in that order. Amongst the 'Persons of Concern' on the globe by the end of 2012, 49% (equivalent to 22.1 million) are females. On the other hand 46% of the world's refugee population (close to 7.1 million) comprises of children.

UNHCR Global Trends 2012 Demographics

Persons of Concern (PoC) = 35.8 million			
Gender Based	%	49% females	51% males
	#	17.5 m females	18.3 m males
Age Based	%	49% children	51% adults
	#	17.5 m children	18.3 m adults
Children of Concern (CoC) = 17.5 million			
Children (0-4 yrs)		Children (5-8 yrs)	Children (9-17 yrs)
4.6 million		7.2 million	5.7 million
13% of PoC		20% of PoC	16% of PoC
26.5% of CoC		40.8% of CoC	32.7% of CoC

9.5.1 Rehabilitation and Reintegration of Conflict-affected Children

One of the greatest ironies of armed conflicts is that when adults indulge in strife, the most horrific consequences are on children-the most susceptible and blameless citizens of them all. Children suffer the worst brunt not just because they are defenceless in cross firing, but also because war strategies of the enemy deliberately target them. Added to this is the trauma of horrific abuse of their person, inhuman havoc to their psyche, and irreparable loss of family and home-after effects of which continue to characterize the remaining life of these children. Brutality takes another dimension altogether when war afflicted children go from being bystanders, casualties, and targeted victims to become offenders-with the rampant military use of children. Owing to armed conflicts in the last decade of 20th century, approximately 2 million children have been killed, 4 to 5 million children have been disabled, 12 million children have been rendered homeless, more than 1 million children have become orphans or have separated from their parents and around 10 million children are facing psychological problems.

To provide protection for children, the United Nation International Children's Emergency Fund (UNICEF) was established in 1946 after World War II. Over the years, organisations like UNICEF, UNHCR, International Committee of the Red Cross, Committee on the Rights of the Child, Action for the Rights of Children, International Rescue Committee and Save the Children International have worked to offer humanitarian aid and redressal to minors caught in the turmoil of war and



insurgency. In spite of this, war atrocity on children continues unabated and its scale is ever expanding.

A still from Children have the right to protection in times of war animation by Cartoons for Children's Rights a UNICEF broadcast initiative

The 1996 report titled *Impact of Armed Conflict on Children*, prepared through field visits and consultations by Graca Machel, the UN Secretary-General's expert on the subject and first Minister for Education in independent Mozambique, explicitly enumerated the exact manner in which children were involved in the ongoing armed conflicts across the world and strongly recommended that the international community take firm steps to stop recruitment of persons under 18 into armed forces, assistance programmes be developed and implemented to resolve issues regarding health, nutrition, adequate shelter, psychological and psychosocial well-being, and in the long run address the socio-economic issues that are the root cause of conflicts.

Ways in which Armed Conflicts Affect Children

- ❑ **Loss of Life:** Armed struggles inevitably result in demise of millions of children, their family cum friends-this leads to indescribable grief and bereavement for the young ones. War killings (direct causes) are just as responsible for these deaths as are diseases, poverty, starvation, exposure, lack of sanitation, inadequate medical aid, and social violence (indirect causes).
- ❑ **Physical Affliction:** Numerous children are physically injured, maimed and handicapped during the course of armed conflicts. Landmine explosions, war ammunition and erratic detonation of unexploded ordnance are the most prominent dangers that children are exposed to both during and post conflicts. Furthermore, several ailments in form of diseases and malnutrition grip children as a result of lack of food, water, sanitation, medical and immunization facilities. Sufferings of such children continue years after the war as rehabilitation services may take indefinitely long to reach the apt restorative drugs or supply the apt prosthetics.
- ❑ **Mental and Emotional Affliction:** Exposure to gruesome violence and war terror leaves a grave psychological impact on children. The irreparable losses and disruption in their lives lead to anxiety and chronic depression. Majority of these children survivors of war are doomed to tackle mental trauma caused by their bad experiences in the war for most of their remaining lives. Moreover, moral ethos of the children survivors are severely shattered-often a strong feeling of disregard for the values of society and humanity develops in them-mainly owing to the apathy and indifference exhibited by others towards their own sufferings. In such a frame of mind, these children become susceptible to brainwash, which further on disrupts society at large.
- ❑ **Gender-based Violence:** Rape and molestation are rampantly committed against children, both boys and girls, during armed conflicts. In fact gender-based violence is systematically employed as a weapon of war. Besides, adolescent girls are forced into prostitution to earn their livelihood. This invariably causes rise in sexually-transmitted diseases and psychological ordeal among this group. Physically abused females are additionally stigmatized in society for having relations and/or bearing babes out of wedlock, while the illegitimate babes are also marginalized.
- ❑ **Loss of the 'Way of Living':** Children lose their bearings, their home and hearth; the community structure and lifestyle they are accustomed to. Parents' preoccupation in seeking protection and subsistence for the family tends to render children neglected. Many are orphaned or separated from their parents and guardians. Several are forced to flee. They get little opportunity of education and recreation-thereby stunting their mental capabilities.





Lack of attention and care from parents/foster parents/caretakers propels children towards unhealthy habits, alcohol addiction, drug abuse and rebellious violent attitude. In absence of parental protection, children are compelled to fend for themselves for sustenance-often pushing them towards thievery, servitude, sex trade and militant activities.

- ❑ **Loss of Social Community and ethnicity:** Social community structure disintegrates during conflicts-the absence of which not only leaves children unprotected but also woefully ignorant of their cultural values, traditions and customs. Rubbles of war invariably bury some part of the heritage that is forever lost to the young people.
- ❑ **Forced involvement in Militant Activities:** Children are forcibly recruited in armed forces to participate in conflicts by warring groups. The military use of children takes three distinct forms: children take direct part in hostilities (as child soldiers); or they are used in support roles such as porters, spies, messengers, look outs; or they are used for political advantage either as human shields or in propaganda.

Read and Reflect

The 18-year old rebellion of the Lord's Resistance Army (LRA) against the government has forced over 1.6 million Ugandans- half of them children-to flee to squalid and overcrowded camps in order to escape wanton attacks and killings. The number of internally displaced persons has almost tripled since 2002. Attacks on soft civilian targets continue, carried out by child soldiers much younger than their victims.

The most disturbing aspect of this humanitarian crisis is the fact that this is a war fought by children on children-minors make up almost 90% of the LRA's soldiers. Some recruits are as young as eight and are inducted through raids on villages. They are brutalized and forced to commit atrocities on fellow abductees and even siblings. Those who attempt to escape are killed. For those living in a state of constant fear, violence becomes a way of life and the psychological trauma is incalculable. Fearing abduction, streams of children, often with mothers in tow, leave their homes every night and walk for hours from surrounding villages to reach the relative safety of major towns, only to trek their way home in the first light. Some 40,000 "night commuters" sleep under verandas, in schools, hospital courtyards or bus parking places to evade the snare of the LRA.

Since the rebellion began in the 1980s, some 30,000 children have been abducted to work as child soldiers and porters, or to serve as "wives" of rebels and bear their children. These numbers have soared, with 10,000 children abducted in the past 18 months alone.

Source: http://natclimbskili.com/ugandas_history

9.5.2 International Provisions for the Protection of Conflict-affected Children

Even though our world gets more precarious day by day for children caught in the crossfire, constant and relentless efforts have been made on the international forum to alleviate the situation, which have brought the world today in a stronger position to protect children during wars and armed conflicts. Numerous international treaties and laws have been adopted and amended to cater to the dynamic requirements of child protection norms.

The first children's rights proclamation to be drafted is the **1923 Declaration of the Rights of the Child**, which was prepared by Eglantyne Jebb, the founder of 'Save the Children' organisation. It comprised of five basic principles and was endorsed by the League of Nations. Later, the Declaration was revised, updated by additional five principles and then adopted by the United Nations as the **1989 Convention on the Rights of the Child** to set out the universal civil, political, economic, social, health and cultural rights of children. Meanwhile, the **Geneva Conventions of 1949** had



been passed in the wake of WW II to set down the rights of combatants (through the first three Conventions) and those of non-combatants (through the Fourth Geneva Convention a.k.a. 4GC) during armed conflicts. Subsequently the **1977 Geneva Protocols I & II** (a.k.a. PI and PII) had been added to the Conventions to detail on rights of victims (including children in war) in international and national strife. The specific provisions provided for civilians are:

- ❑ **Articles 23 and 55 of 4GC:** These articles state that during military operations, free passage should be provided for medical supplies, food and clothing for children and women (especially those pregnant or nursing mothers)
- ❑ **Article 24 of 4GC:** This article instructs the parties involved in the conflict to assure all kind of support to unaccompanied children or children who have been separated from their families.
- ❑ **Article 51 of PI:** It provides general protection to civilians during military operations. It states that civilians should not be attacked and no acts of violence should be conducted against them during military operations.
- ❑ **Article 77 of PI:** This article prohibits any form of sexual assault on children.
- ❑ **Article 14 of PII:** This article prohibits starvation of civilians during military operations. Therefore it condemns activities like destruction of food items, crops, livestock, drinking water, irrigation works, etc.

The **Convention on the Rights of Children** (CRC/UNCRC) holds the status of an international law, comprises of 54 Articles and is based on four core principles viz. non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child. Notable provisions include:

- ❑ The Convention provides for,
 - *Protection against any form of violence and exploitation*
 - *Protection against any form of physical atrocities or torture, or inhuman treatment*
 - *Assured help in re- uniting children with their family*
 - *Assurance in providing name and nationality to children*
- ❑ **Article 38** calls upon the States *"to ensure protection and care of children who are affected by armed conflict."* Besides this it also directs the States to *"refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen* years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest."*

* *The 2002 Optional Protocol* has amended the minimum legal recruitment age from 15 to 18.

- ❑ **Article 39** defines the rights of children during armed conflicts. It explicitly explains that both physical and psychological support should be assured to children during armed conflicts. It also states that governments should by all possible means help in the social reintegration of the child victims.

Till date, the CRC has been revised and appended with three optional protocols (amendment treaties that are independent laws, too). The First Optional Protocol to the CRC on the *Involvement of Children in Armed Conflict* enforced in 2002- (1) prohibits the conscription into the military of children under the age of 18 and (2) ensures that military volunteers under the age of 18 are exempted from taking a direct part in hostilities. The Second Optional Protocol, also enforced in 2002, is on the prohibition of sale and sexual abuse of children. The Third and the latest Optional Protocol, enforced in 2014, introduces a communication procedure through which children or their





representatives would be able to file complaints for violation of the rights of children.

The overall compliance to the CRC and the three Optional Protocols is monitored by the **UN Committee on the Rights of the Child**. As part of further efforts, the UN Security Council **Working Group on Children and Armed Conflict (CAAC)** was established in 2005 to address issues related to children in armed conflict situations and recommend methods of protecting children impacted by armed conflicts.

The adopted provisions may have not completely prevented but have restrained military abuses to a certain degree. Though national governments have known to cause ruthless violence on civilians, owing to growing involvement of sub national civil or military groups that are not bound by any treaty, the implementation of International Conventions becomes complicated.

Read and Respond

Using Books to Understand Impact of Wars on Children

Read books describing any war period, which may be historical fiction, periodicals, picture books, folk tales, or non-fiction text. Collect information on the role and struggles of children during the war. Maintain a file of the collected information along with the references of the sources. Also analyze society's perspective on that war.

Recommended Titles: The Diary of Anne Frank, Hana's Suitcase, The Kite Runner

9.6 Women Traumatized in Armed Conflicts

"Violence against women and girls continues unabated in every continent, country and culture. It takes a devastating toll on women's lives, on their families and on society as a whole. Most societies prohibit such violence - yet the reality is that too often, it is covered up or tacitly condoned."

- United Nations Secretary-General Ban Ki-moon

Gender-based violence against women of all ages and in all cultures, especially during wars and armed aggressions, is as old as history itself. However, of late it has emerged as a strategic weapon of war. One such deadly example is that of Sierra Leone where 94 per cent of displaced households had experienced sexual assaults. Similarly majority of women were raped during the genocide of Rwanda in 1994. Similarly there have been recent reports of sexual abuse during armed conflicts in countries like Algeria, Myanmar, Southern Sudan and Uganda.

The violence against women in war zones has been ever increasing. Large numbers of women are being trafficked out of war zones and are forced to work as labourers and sex workers. Even in refugee camps, bars, brothels, and prisons, women survivors have often endured physical and mental torture. Every woman in conflict zone has a story of horrific personal experiences to relate. This morbid saga of pain, torture and humiliation includes bloodcurdling incidents of kidnapping, blindfolding, beating, gang rapes, rape camps, mutilation and murder.

During armed conflicts, women typically have to witness and endure the murder of all their male relatives at the hands of combatants-often simultaneously with abuse of their person. The women are forcibly separated from their families and enslaved to serve the depravations of combatants. The females that are left back have to then fend for themselves as well as for the surviving children and elderly in the face of multiple deprivations. Gradually few of their family members succumb to hunger, exposure, diseases, grief and of course to continued militant actions. In fortunate instances, the women's children are spared from compelled recruitment as child soldiers/terrorists. Now, in order to feed these very children, women are constrained to choose between prostitution and signing up a child for militancy. Either choice takes them through a personal hell of its own kind. Frequently, women make a third choice and take their own lives and that of children to end the misery altogether. The fate of abducted and enslaved women, who manage to return to their homeland by escaping or being released after cease fire, gets no better. It



is even more traumatic to return only to find their homeland destroyed and families lost leading the women to suicide.

Wars leave indelible physical and emotional scars on the minds of women for their entire life. Sufferings of women continue even after the war has ended. Majority of them have very little hope of recapturing even a semblance of their former world. Thus the ordeal of women in war zones should be empathized with and efforts to support and protect them should be taken up on priority.

9.6.1 Towards Ending Violence against Women

In the International scenario, violence of any kind against women has been declared as a criminal offence and has been banned. Gay J. McDougall, the former Special Rapporteur on Contemporary Forms of Slavery, clearly states that *"must better reflect the experience of women and the true nature of the harms to them, particularly during armed conflict."* She requests for *"further development of the legal framework through consistent, gender responsive practice."* The next step in the direction of prohibiting violence against women was taken by the *UN Human Rights Committee*, when it declared the right to gender equality not only as a right to non-discrimination, but also appealed for taking the required action in the direction. Thus in March 2000, this Committee made it compulsory for all States to take the required action to eradicate all kinds of violence against women, such as rape, molestation, abduction, domestic violence, etc. The same objective was reiterated by the Security Council, in the **2000 Resolution on Women, Peace and Security**.

In spite of the adoption of these measures, it is believed that a lot more needs to be done to eradicate violence against women throughout the world. The biggest hurdle to corrective measures is the inability of women to access the protective services and available legal remedies. There are various reasons for this—*first*, women's status in the society and the prevalent cultural and social stigmas prevent them from seeking protection and instead force the victims to marry whoever will have them, including the men who perpetrated the crime; *second*, often rape victims are not empathized and accepted by the family members who prefer sweeping the matter under the carpet, and often make the situation even more horrid by molesting the victims themselves; *third*, the insurgency developed due to the war prevents women from gaining access to the various available protective facilities.

In 2010 the **United Nations Entity for Gender Equality and the Empowerment of Women a.k.a. UN Women** was set up by merging four distinct UN entities that functioned exclusively on the upliftment of state of women in the world. But this is not enough. Violence against women can be ended only with genuine implementation as opposed to mere adoption of provisions both nationally and internationally. States must also formulate special laws at the national level in tandem with the international laws to protect women. States even need to formulate a proper legal framework to investigate the crimes against women and punish the offenders on the basis of the report. This is extremely necessary to intimidate the perpetrators of such crimes. In addition, legislations must also be formulated to eradicate Domestic violence during post-conflict reconstruction.



Read and Respond

Women have not always been sufferers during conflicts. A number of women have participated in many roles in the various armed conflicts all over the world. While doing so they have sometimes created history.

Collect pictures and information of such women, who have played a prominent role in any war or civil war.





Unit End Reflections

Comprehension Questions

1. What is conflict?
2. What are the causes of conflicts?
3. Define internal conflict and civil war.
4. What is Protection? Why do refugees need protection?
5. Describe the rights of Refugees.
6. What is meant by internally displaced persons? Who is responsible for protecting them?
7. Mention the guiding principles on internal displacement.
8. Discuss the impact of war on children.
9. Why child soldiers are considered as an offence to humanity?
10. How do terrorists or fundamentalist groups mislead the children and use them to fulfill their narrow interest of violence?
11. Elaborate the measures which have been taken at the international level to protect the children during conflicts.
12. How are women traumatized during armed conflicts?
13. What steps are taken by the 'UN Women' to eliminate violence against women?
14. Differentiate between migrants and refugees.
15. Briefly describe specific laws designed for addressing the problem of IDP's.

Read and Reflect

2013's Top 5 Moments for Women's Empowerment

2013 was quite a year for women and we hope these moments will set the stage for some big changes in the world in 2014! Here are our top 5 moments for women's empowerment in 2013:

1. Malala Yousufzai rises from tragedy

After being shot and nearly killed by the Taliban for trying to attend school, Malala has regained her health and become a crusader for girls' right to education. She has also published a book and started the Malala Fund, which helps programmes that directly impact the quality and accessibility of education for girls.

2. Fawzia Koofi runs for President of Afghanistan

Although Afghan politician and women's rights activist, Fawzia Koofi had to withdraw from the presidential race, the audacity of her dream to be Afghanistan's first female president inspired us all. As a Member of Parliament in Kabul and the Vice President of the National Assembly, she continues to be an avid advocate of women's empowerment.

3. Dr Yeo Sze Ling honoured with Her World Young Achiever Award

At just age four, Dr Yeo Sze Ling contracted glaucoma, eventually losing all but the ability to see light. Not letting her disability bar her way to success, she not only attended a mainstream secondary school, but also graduated top of her faculty with a degree in Mathematics. She went on to obtain a PhD in Mathematics. Today she works as a research scientist in coding theory at A*.



4. **Sheryl Sandberg ignites a conversation about leaning in.**

With her book *Lean In*, Facebook COO, Sheryl Sandberg started an important conversation about corporate culture, female power, the glass ceiling, and what women can do now to elevate themselves for the career long-haul.

5. **Debbie Sterling creates Goldie Blox**

Engineer Debbie Sterling challenged the perpetuation of gender roles when she created Goldie Blox, a book series and construction set that engages kids to build through the story of Goldie, the girl inventor who solves problems by building simple machines.

With so much progress in women's empowerment being made, there is still plenty of work to be done in ensuring that women across the world live happy and fulfilling lives free of oppression, subjugation, and abuse.

*Source: The Singapore Committee for UN Women
Posted on January 5, 2014*







HUMAN RIGHTS

UNIT-3

Redressal Mechanism





CHAPTER 10: REDRESSAL MECHANISM

Human Rights are said to be inalienable. We enjoy these rights merely on the grounds of being human beings. These rights are bestowed upon every individual in equal measure. This implies that while all individuals enjoy the liberty to advance their lives in every sphere, they are also obligated to respect that others are just as entitled to enjoy the human rights in a similar manner.

One has freedom to enjoy rights but not to violate the rights of others. People may have conflicts and disagreements due to which situations arise in which one violates the rights of others. Many a time people with special powers in the government and/or non-government organisations wittingly or unwittingly infringe upon the rights of others. We would do well for ourselves and all humanity if we create in ourselves, respect for human rights which would in turn induce us to behave in a manner that acts as an enforcement mechanism by itself.

Unfortunately the situation is not so idyllic. On a daily basis crimes and violations of human rights are perpetrated. We hear of incidents of foeticide, child labour, rapes, abuses, abduction, murder, so on and so forth through various sources of media. In such a scenario, it is imperative that awareness of human rights is created and promoted. This is to help an individual to seek effective redressal and also to make the redressal mechanisms efficient and effective. The perpetrators of the crime would be punished and the victims would have a redressal mechanism to entreat relevant remedy.

10.1 What is a Redressal Mechanism?

Before we study the redressal mechanism in the areas of education, health and consumer rights at the national as well as international level in detail, we need to know the origin and the meaning of the word 'redress'. It means to remedy or set right an undesirable or unfair situation, or to provide remedy or compensation for a wrong done or grievance.

Redress mechanism is developed for the protection of human rights in different fields both at the governmental and non-governmental spheres at different national and international levels.

10.1.1 Importance of Redressal Mechanism

Victims of human rights abuse have well established rights to see the offenders punished, to receive compensation and to know the truth. Human rights violations not only affect the victims, but the society as a whole. To fulfil these obligations, states have duties to guarantee that violations do not occur or recur and hence it is bound by a special duty to form suitable redressal mechanism so as to prevent abuses and to protect as well as promote certain rights freedoms of its citizens. The grievance Redressal mechanism of an organization is an instrument to measure its efficiency and effectiveness. It provides valuable feedback on the functioning of the organization.

The redressal mechanism system allows people to seek remedies for actual or even perceived hostile treatment or injustices in their dealings with governmental or non-governmental agencies. Through such mechanisms one can hope to remedy grievances, to obtain a second perspective, to voice an appeal, or to dispute decisions, as applicable. The mechanism should clearly outline the means through which redressal and compensations may be sought. It is important that people are assured of fair treatment and the decisions pronounced are fair and justified under the relevant rules.

10.2 What are Judicial and Non-Judicial Redressal Mechanisms?

Judicial Redressal Mechanisms can be defined as legal mechanisms which are mandated to receive complaints and help resolve disputes. They are empowered to produce binding adjudications. This



mechanism does not always function effectively and can be difficult to access, especially for victims who lack knowledge about the existence of the mechanism. It is also found to be a more expensive and time-consuming form of addressing disputes, abuse or misconduct.

Non-Judicial Redressal Mechanisms can be defined as voluntary mechanisms that are mandated to receive complaints and help resolve disputes but are not empowered to produce binding adjudications. They enable claims to be pursued via rules and procedures that are more formalized than those rules when claims are pursued via political campaigns or voluntary business but less formalized than judicial rules and procedures. They therefore go beyond corporate self-regulation but stop short of legal regulation.

Non-Judicial grievance mechanisms offer possibilities for addressing human rights abuses. These improve human rights policies and practices of multinational corporations. The mechanisms play an important role in complementing and supplementing the often more expensive and time consuming legal forms of addressing corporate misconduct.

Read and Respond

Are you familiar with the word 'omhurdsmen'? Look up its origin and etymology. Conduct some research and discuss your inferences in groups of 6. Based on the group discussion, formulate a set of 4 questions each to ask in a class quiz.

10.3 Redressal Mechanism in the Areas of Education

Importance of Education

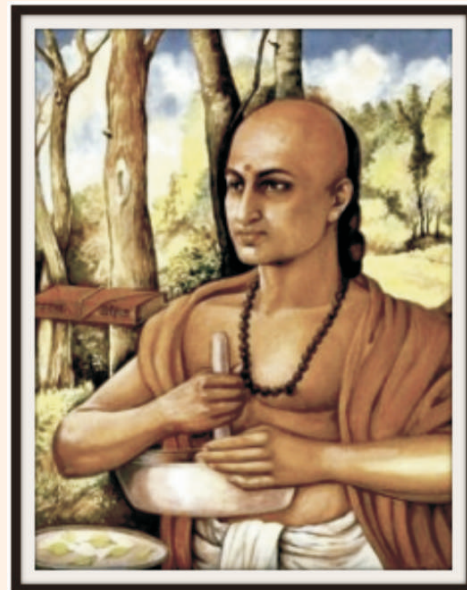
Education is the best friend. An educated person is respected everywhere. Education beats beauty and youth.

- Chanakya, the great economist, philosopher and advisor of the Gupta Period

Education is the manifestation of the perfection already latent in man.

- Swami Vivekananda

Education helps an individual to acquire knowledge as well as gives a different perspective and view to any situation. It facilitates the process of thinking, helps decipher how things work and also increases one's self-esteem. Economically, it is a great tool to get rid of poverty, thereby diminishing the social and economic disparity.



Education is an essential human right and a valuable medium for an individual's freedom and empowerment. In spite of that, there are millions of children and adults who do not get the opportunities for education.

What is the Right to Education?

The Right to Education is a basic human right. Every individual, irrespective of age, gender, disability, race, nationality, social or ethnic origin, religion or political preference, etc., is entitled to a free elementary education.

According to, Article 26 of *Universal Declaration of Human Rights (UDHR)*, 1948

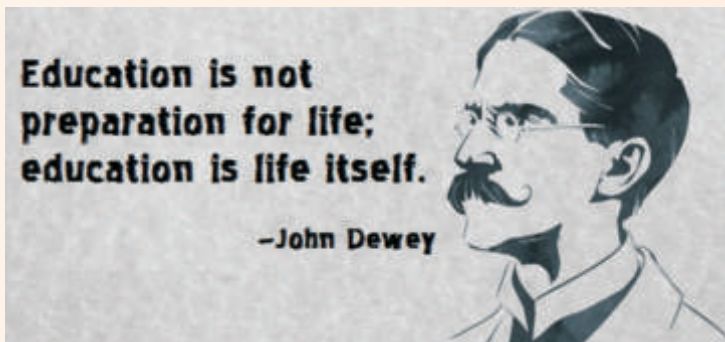
- ❑ *Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.*





- ❑ *Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.*
- ❑ *Parents have a prior right to choose the kind of education that shall be given to their children.*

The Right to Education has been recognized internationally to be the pivotal constituent, intended not only for men and boys but women and girls as well. Various international human rights conventions repress any discrimination based on sex or gender as mentioned by the Universal Declaration. Every child, boys and girls equally, under all such conventions, have a right to obtain free and compulsory primary education under all such conventions. It is an unchallengeable right.



John Dewey-American philosopher, psychologist & educational reformer

Education has a decisive role to play in the development of a nation, especially in developing countries like India. It can help in the economic growth of the country, control the population growth, poverty and increase the employability as well as productivity in a society. Education helps the person learn to read, write, calculate and think critically as well as decisively. It ensures better economic growth as well as

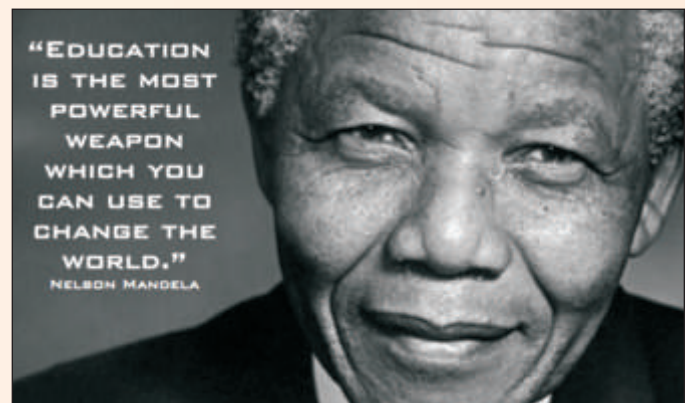
prospects, increases the agri-cultural productivity, builds self esteem thereby making people healthier and happier. The primary educational skills become the basis for learning in the future and there are number of children across the developing countries that are missing out on such a valuable life asset. To fight this problem, India has made several efforts; RTE is one of them which we will discuss in detail here.

Read and Respond

Find out John Dewey's contribution to the modern educational system and write a paragraph on it.

What is the need of the Right to Education?

The right to education (RTE) is not an end in itself, but is a significant device in improving the quality of life of human beings. Through education, a nation can achieve not only the economic but also social and cultural advancement. It is only an educated individual who can enjoy many of his other human rights. It also helps in creating awareness among people about their responsibilities, which is an indispensable instrument for accomplishing the goals of equal opportunity, peace and harmony in the world.



"There are a large number of human rights problems, which cannot be solved unless the right to education is addressed as the key to unlock other human rights. Education operates as multiplier,



enhancing the enjoyment of all individual rights and freedoms where the right to education is effectively guaranteed; while depriving people of the enjoyment of many rights and freedoms where the right to education is denied or violated."

~ Katerina Tomasevski, former United Nations Special Reporter on the Right to Education

International Conventions Relevant to Redressal of Human Rights

❑ Universal Declaration of Human Rights, 1948 (Article 8)

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

❑ European Convention on Human Rights (Article 1, Right to an Effective Remedy)

Anyone whose rights and freedoms set forth in this invention are violated should have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

❑ International Covenant on Civil and Political Rights (Article 14-1)

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against a person of his/her rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing be a competent, independent and impartial tribunal established by law. The press and public may be excluded from all or part of the trial for reasons of morals, public order or national security in a democratic society or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. Any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

10.3.1 Organizations Working towards the Redressal of the Universalisation of Education at the International and the National Levels

At the international Level

The United Nations



The purpose of the United Nations is to bring all nations of the world together to work for peace and development based on the principles of justice, human dignity and the well being of all people is its motto. It affords the opportunity for countries to balance global interdependence and national interests when addressing international problems. The UN emblem depicts the world held in the 'olive branches of peace'. It systematically works towards redressal in various areas.

UN Convention on the Rights of Persons with Disabilities (Article 24- Education)

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:
 - a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;





- b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
 - c) Enabling persons with disabilities to participate effectively in free society.
2. In realizing this right, States Parties shall ensure that:
- a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
 - b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
 - c) Reasonable accommodation of the individual's requirements is provided;
 - d) Persons with disabilities receive the support required, with in the general education system, to facilitate their effective education;
 - e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
- a) Facilitating the learning of Braille, alternate script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
 - b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
 - c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deaf blind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train the professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternate modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

10.3.2 Government of India Educational Endeavours: At the National Level

Numerous schemes, policies and programmes are sponsored by the Government of India under the Ministry of Human Resource Development to implement quality education. In India, education is a subject that falls under the Concurrent Lists; this implies that education laws prevalent in any part of the country are determined by the State Government in addition to the Central Government.

National Advisory Council (NAC) Recommendations for Strengthening the Right to Education

On the basis extensive study and discussions with experts and stakeholders, the National Advisory



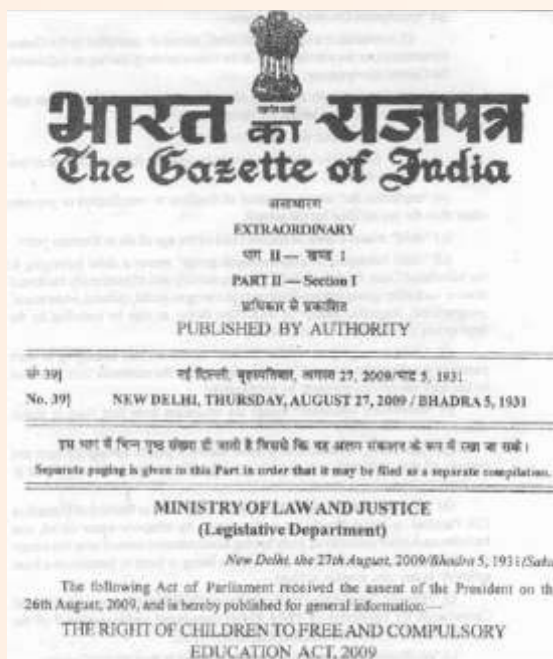
Council has framed a set of key recommendations that would facilitate in better enforcement of this right as well as in making quality education accessible for all.

1. Increase financial allocations and improve efficiency of public spending to promote learning outcomes and inclusiveness in elementary education.
2. Government of India should develop a comprehensive national policy for early childhood and pre-school education.
3. Establish well-defined learning outcome goals through the National Curriculum Framework (NCF).
4. Strengthen monitoring and evaluation systems to ensure that all schools fulfil (i) RTE input and infrastructure norms; and (ii) requirement of learning outcomes and inclusiveness.
5. Give top priority to enlarging the pool of competent teachers.
6. Ensure better integration of children from disadvantaged groups and the economically weaker sections in private schools, as prescribed by RTE Act, 2009.
7. Support all schools to meet the compliance requirements under the RTE Act in a time bound manner.

The Right of Children to Free and Compulsory Education Act (RTE), 2009

The Right of Children to Free and Compulsory Education Act which came into force on 1st April, 2010 is a land mark legislation that makes elementary education (from ages 6-14) a fundamental right guaranteed by the Constitution of India. Government of India along with the State Governments has since initiated several measures to ensure effective implementation of the RTE.

The Constitution of India cites the RTE in the Chapter of Directive Principles of State Policy. The Constitution (86th Amendment) Act, 2002 added Article 21-A which bestows the right to free and compulsory education on all children between 6-14 years as a Fundamental Right. This means that every child has a right to full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.



There are two important words 'free and compulsory education' in the title of the RTE Act.

- ❑ *'Free education'* means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.
- ❑ *'Compulsory education'* confers the responsibility on the appropriate Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age groups. With the introduction of RTE, India became one of 135 countries to ensure that every child gets the opportunity of a fundamental right of education. India has made a progressive move to a rights based approach that creates a legal





obligation for Central and State Governments to execute this fundamental child right as preserved in the Article 21-A of the Indian Constitution.

RTE: Model Rules

The RTE Act, 2009 (the "Model Rules") are proposed to provide added guidance for executing the Act and making it a reality. It also assigns the accountability for ensuring that all children are admitted in schools and supervise the process of admission among the following bodies:

- ❑ appropriate Governments, defined as the Central Government, State Governments and Union Territory Governments;
- ❑ local authorities, defined as a Municipal Corporation, Municipal Council or Zila Parishad, Nagar Panchayat, Panchayat and any other organization or authority having executive control over the school in question or authorized by or under any law for the time being in force to function as a local authority in any city, town or village;
- ❑ Schools will constitute *School Management Committee (SMC)* that consists of elected representatives of the local authority, parents or guardians of admitted students and teachers;
- ❑ *State Commissions for the Protection of Child Rights (SCPCR)* as constituted under Section 3 of the Commission for the Protection of Child Rights Act 2005 or its equivalent Right to Education Protection Authority (REPA) if the State Government in question has not yet set up an SCPCR, which are in charge of setting up child helpline to act as a forum for aggrieved and distressed children/guardians who need to file a complaint regarding the violation of rights under the RTE.



WHAT THE ACT SA

RTE Act, Section 3(1)
Every child of the age of six to 14 years shall have a right to free and compulsory education in a neighbourhood school till completion of elementary education

The role of *Universal Elementary Education (UEE)* is very crucial to strengthen the base of a democratic system by providing equal opportunity to everyone. With the formulation of National Policy on Education, India started a broad range of programmes so as to accomplish the objective of UEE through numerous schemes and programmes, such as the Operation Black Board, Shiksha Karmi Project, Lok Jumbish Programme, Mahila Samakhya, District Primary Education Programme, etc. A few important ones are enumerated ahead.

1. Sarva Shiksha Abhiyan(SSA)

India's focal programme for universalizing elementary education is implemented through the Sarva Shiksha Abhiyan. 'Education for All'-the motto of SSA, envisions ensuring the fundamental right of education to every Indian. In collaboration with the State Government, the SSA endeavours to establish new schools as well as increase the facilities of the already established schools, thereby making available the required resources to make the mandate of free and compulsory education to the children between the age group of 6-14 years a reality. Some of the main goals of the SSA are to provide admission and maintenance and abolish the gender and social gaps in education so as to improve the level and quality of learning in children. It also presents a range of interventions like construction and opening of new schools, alternate schooling facilities, additional provisions for teachers, regular teacher training, facilitating the academic resource support,





textbooks and also providing the support for learning. It is imperative for the decision makers to understand that it would not be possible to realize the goal of the RTE act until and unless the provisions accorded by the SSA are put to use effectively.

2. Mid Day Meal Scheme (MDMS)

MDMS provides free food to all the students of over 12.65 lakh schools and Education Guarantee Scheme (EGS) centres within the country.

3. Mahila Samakhya

Mahila Samakhya was launched to pursue the aims of the 1986 Educational Policy to educate the women in rural areas, especially those who belong to the economically or socially disadvantaged section of society.



4. National Programme for Education of Girls at Elementary Level (NPEGEL)

NPEGEL is a valuable constitute of the SSA that focuses on supporting female education.

5. Kasturba Gandhi Balika Vidyalaya

It was set up with the idea of establishing residential schools for girls at the upper primary level for the Scheduled Caste, Scheduled Tribe, Other Backward Communities and minorities in problematic regions.

6. Rashtriya Madhyamik Shiksha Abhiyan (RMSA)

RMSA was initiated with the goal to improve admission as well as augment the caliber of secondary education. Conferring to recommended criterion, eliminate socio-economic, disability and gender biases are some of the ways RMSA follows to universal access to secondary level education within a targeted time frame.



7. Scheme of Vocationalisation of Secondary Education at +2 level

Vocational education at the +2 level augments career opportunities and mitigates the lacunae between the demand and supply of the manpower required in the country. Model schools in huge numbers are being set up at the Block level as a touchstone of destination

8. Scheme for Construction and Running of Girl's Hostel for Secondary and Higher Secondary Schools

Read and Respond

Write short notes of 30-40 words on the Redressal Mechanism of any five of the education schemes mentioned above.

This is a Central Government scheme initiated to set up 100 beds Hostels in all the educationally backward Blocks of the country.

9. Scheme of ICT @ School

Information and Communication Technology at the school level was introduced in 2004. This allowed secondary school students from even students from lower socio-economic strata to learn the ICT skills which hitherto were not available to them.

How the Redressal Mechanism works with the RTE

The RTE Act is undoubtedly an extremely powerful law that assures radical improvement in access to education for the children of India. Nonetheless, implementation is the key and an effective grievance redressal strategy can actually achieve the aim of universalization of education. Under





the RTE Act, Sections 31 and 32 assign the role of independent monitoring and grievance redressal to the Local Authority at the level of the urban local body/gram panchayat, and the State Commissions for the Protection of Child Rights (SCPCRs) and the *National Commission for the Protection of Child Rights (NCPCR)* at the state and national levels, respectively. These bodies are required to monitor compliance with the Act, and to receive and act on complaints.



The National Commission for the Protection of Child Rights (NCPCR) shall review the safeguards for rights provided under this Act, investigate complaints and have the powers of a civil court in trying cases. In addition all the States in India have been directed to constitute a *State Commission for the Protection of Child Rights (SCPCR) or the Right to Education Protection Authority (REPA)*.

The first level of the grievance redressal is the School Management Committee after which the complaint would be directed to the local authority. Any person wishing to file a grievance must submit a written complaint to the local authority. If the grievance has still not been redressed, the complainant could appeal to the SCPCR and the NCPCR. Appeals would be heard by the SCPCR/REPA. Prosecution of offences requires the sanction of an officer authorized by the appropriate government.

In addition, the Sarva Shiksha Abhiyaan outlines 14 issues that need to be taken on board to set up a comprehensive monitoring, accountability and grievance redressal mechanism, including raising awareness and public display on the entitlements secured under the RTE; appointment of designated officers to dispose grievances; developing systems for complaint registration; formats and multiple forms of grievance registration; time schedules for complaint disposal; confidentiality clauses, etc. The SSA Framework of Implementation issued by the Ministry of Human Resource Development in March 2011 expressed vital elements of a grievance redressal system. It underlined the principles of decentralization and accessibility and stressed the need to establish modalities for dealing with violations and grievances, “... *the absence of a grievance redressal system implies that monitoring in a rights framework would necessarily entail intervention of the judiciary. A well-managed grievance redressal mechanism on the other hand allows for monitoring to be effective through interaction with the system rather than the judiciary. This means that for the SSA to function effectively in the era of RTE, it will need to develop links with both the grievance redressal as well as monitoring structures mandated under the act... A well defined institutional mechanism for grievance redressal involves a system of registering, investigating and responding within a well appointed time-frame.*”

10.4 Redressal Mechanism in the Areas of Health

Importance of Health

There's nothing more important than our good health - that's our principal capital asset.

~ Arlen Specter, United States Senator

To keep the body in good health is a duty... otherwise we shall not be able to keep our mind strong and clear.

~ Lord Gautam Buddha

In accordance with the popular saying, 'health is wealth', every human being has a right to a sound body and mind. Wherever we work and whatever we do in our life, we need good health in order to carry out our duties well. Many people do not recognize the significance of good health and even if



they do, they may still ignore it. In other words, they just take it for granted when people talk about health, they typically refer to the state of the body. But, health does not simply mean being free from physical pain or the symptoms of diseases. The mind constitutes an essential part in the overall assessment of wellbeing. Good health is not only restricted to a particular caste, creed, gender, or religion, but is the fundamental right of each and everyone.

Right to Health

According to the Committee on Economic, Social and Cultural Rights, the right to health is an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water, adequate sanitation, adequate supply of safe food, nutrition, housing, conducive occupational conditions, healthy environmental surroundings, access to health-related education and information etc.

Right to health is not incorporated directly as a fundamental right in the Indian Constitution. Rather it imposes this duty on the state and to guarantee social as well as economic justice. The Constitution directs the state to take measures to improve the condition of health care of the people. Thus the Preamble to the Constitution of India, inter alia, seeks to secure for all its citizens, social and economic justice. To ensure protection and fulfilment of the right to health for all, without any discrimination, as a Fundamental Right under Articles 14, 15 and 21 (rights to life, equality and non-discrimination), the Constitution of India places the responsibility on the Government. It provides a framework for the accomplishment of the objectives laid down in the Preamble. The Preamble has been improved and elaborated in the Directive Principles of the State policy (Part IV).

The Ministry of Health and Family Welfare, Government of India has set up the National Health Portal in pursuance to the decisions of the National Knowledge Commission. It provides information related to healthcare to the citizens of India and also serves as a single point in getting consolidated health information. The National Institute of Health and Family Welfare (NIHFW) has established the Centre for Health Informatics to be the secretariat for managing the activities of the National Health Portal.

The National Health Bill, 2009

To achieve and protect the rights with regard to health, well being, health equity and justice, the Government of India announced the National Health Bill in 2009, which embraced all the pertinent determinants as well as the constituent links of health, health care and the universal access of health care.

The National Human Rights Commission (NHRC) has linked the issue of health to that of human rights because it is perceived that more could be done to accomplish human well-being when both are considered in tandem rather than as separate issues. The Core Advisory Group of NHRC on Health has the expertise of eminent medical persons and thus is able to conceive and execute schemes for systemic improvements in the health delivery system of the country. The Commission has organized three major national consultations on maternal anemia, human rights HIV/AIDS and access to healthcare. In addition, the Commission has also been working on issues like sub-standard drugs and medical devices, emergency medical care, illegal trade in human organs, and fluorosis. In partnership with Jan Swasthya Abhiyan, between July to December 2004, the Commission had organized five regional and one national public hearing on access to healthcare.

UN agencies like the World Health Organization (WHO), Pan American Health Organization (PAHO), United Nations High Commissioner for Refugees (UNHCR) and UNICEF, are all key leaders and partners that assist NGOs with their missions and endeavours, particularly those connected to health. Once the international community and larger agencies (UN and national governments) are





ready to fund and implement programmes, the NGO community serves as an orienting body or partner to create comprehensive, implementable health programmes. NGOs report to the international community and then execute programmes with financial and technical support from organizations and donors such as WHO, UNICEF, United States Agency for International Development (USAID), the Canadian International Development Agency (CIDA), and the like.

Government Agencies in the Field of Healthcare in India

The main work of the Department of Health (GoI) is to deal with the health care sector, including awareness campaigns, immunization campaigns, preventive and promotive medicine, and public health. Bodies under the administrative control of this department are:

1. Universal Immunization Programme
2. Integrated Child Development Services (ICDS)
3. National AIDS Control Programme
4. Department Of AIDS Control
5. National AIDS Control Organisation (NACO)
6. National Cancer Control Programme
7. National Leprosy Eradication Programme
8. Revised National TB Control Programme (Tuberculosis)
9. National Filaria Control Programme
10. National Iodine Deficiency Disorders Control Programme
11. National Mental Health Programme
12. National Programme for Control of Blindness
13. National Programme for Prevention and Control of Deafness
14. National Tobacco Control Programme
15. National Vector Borne Disease Control Programme (NVBDCP)
16. Pilot Programme on Prevention and Control of Diabetes, Cardio Vascular Diseases and Stroke
17. National Rural Health Mission (NRHM): incorporating AYUSH, IPHS and PRI
18. National Urban Health Mission (NUHM)
19. Reproductive and Child Health Programme (RCH)
20. Integrated Disease Surveillance Project (IDSP)
21. National Water Supply and Sanitation Programme

Read and Reflect

Polio Eradication: India Celebrates Victory over Polio

Completing three full years without reporting any case of polio, India celebrated a landmark achievement in public health on 11 February 2014—the victory over polio.

India has not reported any case of polio since a two-year old girl got polio paralysis on 13 January 2011 in Howrah district of West Bengal. India's victory over polio paves the way for polio-free certification of the South East Asia region of WHO in March end.

This is an unprecedented progress for a country, which reported more than half the global polio cases until the year 2009. Experts always predicted India would be the last to stop polio as its endemic pockets in parts of Uttar Pradesh and Bihar were among the most difficult places in the world for polio eradication.



India overcame huge challenges, with a strong commitment that matched \$ 2 billion allocation over the years to stop polio. Implementing innovative strategies, the programme reaches an incredible 99 per cent coverage in polio campaigns, ensuring every child, even in the remotest corner of the country is protected against polio.

India introduced the oral polio vaccine in 1985 in the Universal Immunization Programme in the backdrop of over 200,000 cases of polio annually (as per estimates of the Indian Academy of Pediatrics). In 1995, the first national polio immunization campaign was held; since then two national and multiple sub-national campaigns are rolled out every year for children up to 5 years of age.

In each national polio campaign, 2.3 million lakh vaccinators, led by 155,000 supervisors, visit 209 million households to immunize 170 million children up to the age of 5 years.

To immunize children on the move, transit vaccinators are positioned at bus stands, train stations, on trains, market places and important road intersections. Nearly 10 million children are immunized by the transit teams in each polio campaign, of them 100,000 on trains.

Focusing on the migrant population, the people on the move in search of livelihood who miss polio immunization in view of their transient nature, the programme covers 70,000 brick kilns and 38,000 construction sites. Nearly 4.5 million children are immunized in the high-risk migrant settlements in each polio campaign.

Since the start of the polio campaigns in 1995, as many as 131 polio campaigns have been held in India till date, in which 12.1 billion doses of polio vaccines have been administered.

The celebration to commemorate India's triumph over polio was addressed by the President of India Pranab Mukherjee, Prime Minister Manmohan Singh, Health and Family Welfare Minister Ghulam Nabi Azad, World Health Organization Dr Margaret Chan, Rotary International President Ron D Burton and UNICEF Representative Louis-Georges Arsenault. All the speakers lauded India's stupendous success and reiterated the need for India to stay vigilant in view of the huge risk of poliovirus importation until the crippling disease is eradicated globally.

Representatives of various other partners and donors, and ambassadors of various countries, which supported the India's fight against polio, joined the celebration.

Over 2,000 representatives from the field - the vaccinators, community mobilisers of the UNICEF-led Social Mobilization Network, the surveillance medical officers of WHO, and the health department officials-who were undeniably the key players in India's proud story of victory over polio, were present at the celebration.

Source: www.unicef.org/india/health_3729.htm

10.5 Redressal Mechanism for Consumers

Every human being is a consumer in some way or the other. Each one of us relies on another person for our needs at the subsistence level and for our desires at the comfort and luxury level. In a civilized society each one of us expects certain decorum to be maintained in any field. The same applies to the field of human beings in the role of a consumer.

Rights of a Consumer

Our rights as a consumer take the form of fair trade competition and we expect to have dependable as well as factual information about commodities we wish to consume. Thus we make the suitable choices based on the information available to us. India is a large country with the world's second largest population. The issues related to consumers have an effect on the entire population since





everyone is a consumer in some manner. The awareness of the consumer rights plays an important role in the protection of these rights. A majority of consumers are poor, unaware and vulnerable and get cheated very often by the shrewd seller or provider. They need support & protection from the crooked seller. The *Consumer Protection Act, 1986 (CPA)* protects the rights of consumer. Now consumers can go to consumer courts for the protection & welfare of their rights.

Consumer Protection at International level

Every year, 15th of March is observed as the World Consumer Rights Day. With the help of The International Organisation of Consumer Unions, which is presently known as Consumers International, the United Nations adopted a set of Guidelines for Consumer Protection on April 9, 1985 which was revised in 1999. The Guidelines address the interests and needs of consumers globally. They offer a framework for Governments, predominantly those of developing and newly independent countries, to draw from for elaborating and strengthening consumer protection policies and legislation.

These guidelines comprise a complete policy framework outlining what governments need to do to promote consumer protection in following seven areas:

1. Physical Safety;
2. Protection and Promotion of the consumer's economic interest;
3. Standards for the safety and quality of consumer goods and services;
4. Distribution facilities for consumer goods and services;
5. Measures relating to specific areas (food, water and pharmaceuticals) and
6. Consumer education and information programme.
7. Measures enabling consumers to obtain redress;

State of Consumer Protection in India

Human beings have various needs and wants. To fulfill these, people buy goods and services for a price. But many a times, the services and goods purchased are found out to be poor in quality or unduly over priced or given/measured less in quantity, etc. The consumers feel deceived by the suppliers who have sold the goods and services to them. In such a situation, where can they go for compensation for his loss? Hence, the need has risen to have a system to redress such issues. It has been said that the best criterion to measure the effectiveness of a system is an audit of the redressal system.

In a developing country like India, where people are not aware considering the literacy rate is very low, where poverty and unemployment are highly prevalent, the consumers encounter problems. Due to inadequacies, consumers in developing countries are not able to play a preeminent role in the economic development that is prompted by a knowledgeable population.

Consumer Redressal System in India

The Consumer Protection Act, 1986 was enacted on 24th December which is celebrated as National Consumer Rights Day. The Consumer Protection Act founds its base in the United Nations guidelines with the objective of providing better protection of consumers' interests. This Act offers effective safeguard to protect consumers against various types of exploitations and unfair dealings. It relies mainly on compensatory rather than a penalizing or preventive approach. It applies to all goods and services unless specifically exempted and covers the private, public and cooperative sectors and provides for speedy and inexpensive adjudication.



Consumer Rights in India

In the contemporary world we are well aware of our rights as consumers. This is because they have been clearly outlined and highlighted by the various governments of the countries. In addition to this they are well protected by various agencies like the governments, consumer courts and voluntary organizations. The consumer rights have now become an essential part of our life and we frequently exercise them whenever required. Thus the awareness towards consumer rights has certainly increased.

The rights under the Consumer Protection Act, 1986 flow from the rights enshrined in Articles 14 to 19 of the Constitution of India. As per the Act, terms like 'consumer', 'goods' and 'service' have been defined as:

- ❑ *'Consumer' is any person who buys goods for consideration and any person who uses goods with the approval of the purchaser. And,*
- ❑ *'Consumer' is any person, who hires any service for a consideration and any beneficiary of such services, provided the service is availed with the approval of the person who had hired the service for a consideration.*
- ❑ *'Goods' are those products which are manufactured or produced and sold to consumers through wholesalers and retailers.*
- ❑ *'Service' means service of any description which is made available to the potential user with respect to the provision of facilities in connection with banking, finance, insurance, transport, supply of electrical or other energy, housing, construction, water supply, health, entertainment, amusement etc. It does not include any service rendered free of charge or under a contract of personal service.*

The Consumer Protection Act, under Section-6, provides the following rights to the consumers:

1. **Right to Safety:** The Consumer Protection Act provides Right to Safety regarding such goods and services, which may be harmful to health, life or property of an individual. For instance, consumers have the right to safety against products like bad quality or stale food products, sub-standard and expired drugs, appliances made of substandard raw material, such as, utensils, water bottles, etc.
2. **Right to be Informed/Right to Representation:** The Consumer Protection Act also provides Consumers the right to the entire information, (such as quality, purity, date of manufacture, method of use, etc.) regarding the goods or services they wish to buy. Thus this right ensures that the producer may not cheat the consumer in any way.
3. **Right to Choose:** The right also gives the provision of choosing any goods or services available in the market to the consumer, without any kind of unfair influence on the part of the salesman. Any influence on the part of the salesman would be considered as interference. This offence is punishable according to the right.
4. **Right to be Heard:** This right confers provision for consumers of being attended to in case of filing a complaint. All the other consumer rights have no relevance if there is no action on the complaints of the consumers. Thus the consumer can file a complaint if any of these rights are affected. For the effective implementation of this right, several organizations have set up Consumer Service Cells, with the view to provide immediate and appropriate action to the complaint of the consumer. Besides, several newspapers like 'The Economic Times' have special weekly columns, through which they highlight the complaints of the consumers.
5. **Right to Seek Redressal:** This right gives the provision of receiving compensation to the consumers, in case their consumer rights are violated. E.g. if the quantity and the quality of the product bought by the consumer is below standard, and does not comply with the promise





of the seller, then the buyer can seek compensation, such as return or exchange of the product, free repair of the product, etc.

6. **Right to Consumer Education:** This right ensures to increase awareness of consumers regarding their rights as consumers. Various schemes have been adopted by the Government to educate and update the consumers regarding their rights, such as 'Upbhokta Jagran', a magazine published by the Ministry of Civil Supplies on the quarterly basis. Similarly a programme titled 'Sanrakshan Upbhokta Ka' is regularly telecast by Doordarshan in order to educate the masses about the consumer rights.

Duties of Consumers

Apart from enjoying consumer rights, the consumers also need to fulfill certain responsibilities. Consumers need to take care of certain things while purchasing services and goods, which are as follows:

1. **Consumers should exercise their rights without any apprehension:** Although many rights have been given to the consumers, they will be ineffective if the consumers are apprehensive about exercising their right. To do so they must be completely aware of their rights and all associated specifics while making purchases.
2. **Consumers should apply caution while making purchases:** The consumers must be very careful while purchasing products. They should not trust the salesman blindly. In fact the consumer must try to extract all information regarding the quality, quantity, price, utility etc, before finalizing on buying a particular good or service.
3. **Responsibility of filing a complaint on time:** The primary responsibility of a consumer is to file a complaint on time, in case the goods and services purchased are not up to the mark. If a complaint is not filed on time it will be in vain, especially if the period of guarantee/warranty has lapsed. The consumers ought to take action against the deceptive producers or salesmen, so as to discourage corrupt business practices.
4. **Consumers should be aware of good quality standards and should in no way compromise with it:** The consumers should be aware of good quality standards, such as ISI, Agmark, Woolmark, FPO, etc. They should never settle for low quality products solely on account of lower prices. If consumers compromise on the quality of the product on account of such issues, no rights would be able to guarantee them protection.
5. **Consumers should not blindly believe in advertisements:** Advertisements often exaggerate about the utility and quality of the products and services. Therefore the consumers must not be misled and should be able to assess the quality and merit of the products and services.
6. **Consumers must ensure to take the Payment Receipt and Guarantee/Warranty Card while purchasing any product:** It is the responsibility of the consumer to get a receipt or bill and a guarantee/warranty card, as applicable, from the seller while purchasing any product. These things will be extremely useful if the consumer finds any defect in the product or if the consumer needs to file a complaint against the seller.
7. **The Consumer should ensure that no hasty purchasing is done:** The primary responsibility of consumers is to ensure that purchasing is not done in a hurry, as they are quite likely to make a mistake or compromise in quality in such a situation. In fact they should plan before making the purchase i.e. they should do a market survey and make an estimate beforehand of the things required, including their quantity.

Contribution of Governmental Organization in Consumer Rights Protection

The foremost role for the realization of Consumer Rights is played by the judiciary in our country.



For proper implementation of Consumer Protection Rights, the Consumer Protection Act was amended in 2000. This amendment recommended formulating Consumer Protection Councils or Forums at the district, state and national level. It also formulated a Three-Tier Judiciary, to solve the complaints of the consumers in a time-efficient manner without any complication and expense. The three tiers of this judiciary system are as follows:

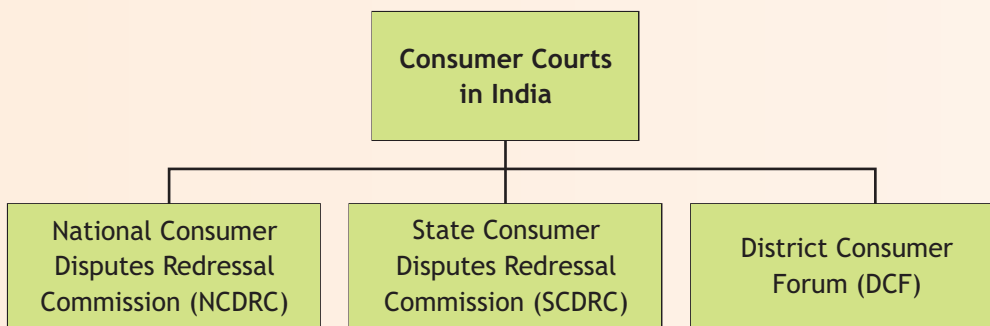
- 1) District Forum at the District level
- 2) State Commission at the State level
- 3) National Commission at the National level

Contribution of Non-governmental Organization in Consumer Rights Protection

Around 500 NGOs are also striving hard for the protection of the rights of the consumers by working towards accelerating consumer awareness towards consumer rights in the following manner:

- ❑ By publishing Brochures and Journals
- ❑ By organizing seminars, conferences and workshops for consumers
- ❑ By educating consumers about how they can help themselves
- ❑ By providing special education to women about consumer rights
- ❑ By encouraging consumers to understand the importance of desirable consumption standards

In India, the Consumer Protection Act (CPA) was enacted in 1986 with the specific purpose of protecting consumers' rights and providing a simple quasi-judicial dispute resolution system for resolution of complaints. Under CPA, a three-tier quasi-judicial machinery at the National, State and District levels has been established.



There are three layers of Consumer Courts in India.

1. At the top, there is an apex body known as *National Consumer Disputes Redressal Commission (NCDRC)* working hand-in-hand to provide inexpensive, speedy and simple redressal to consumer disputes in the country.
2. At the mid level, there is *State Consumer Disputes Redressal Commission (SCDRC)*. There are 35 such State Commissions in the country.
3. Finally, at the bottom is the *District Consumer Forum (DCF)* at the district level in the state. There are 604 District Forums in the country now.

This elaborate alternative redressal mechanism has provided several benefits to the consumers. Besides providing speedy redressal to the consumers' grievances, the clearly spelt out legislation has reduced the ambiguities in the procedural matters. Despite the existence of such a holistic law, the situation of consumer redressal in India is constrained with problems (like delays in judgment, non-compliance with orders, etc.). However, the present situation is certainly a big improvement over the situation that was prevailing in the past. Apart from the CPA, redressal mechanisms have





been incorporated under the *Monopolistic and Restrictive Trade Practice Act, 1969* and the *Indian Arbitration Act, 1940* while through voluntary complaint redressal mechanisms are being provided by various businesses these days.

Read and Respond

You must have heard of the catchy caption 'Jago Grahak Jago'. Cut some newspaper advertisement giving complete information about it. Find out and name some of the important measures taken by the Central Government to generate consumer awareness. Also look up how and when a complaint can be filed in the consumer court?

Leads: <http://pgportal.gov.in/>

Public Grievance Redressal Mechanism

India's National Consumer Policy statement takes into account inter alia the following two rights of consumers: basic needs and a healthy environment. The right to basic goods and services guarantees a dignified living. It includes adequate food, clothing, health care, drinking water, sanitation, shelter, education, energy and transportation. Healthy environment entails the right to a physical environment that enhances the quality of life. It includes protection against environmental damage and acknowledges the need to protect and improve the environment for future generations as well. One of the significant objectives of the National Consumer Policy is to make consumer impact assessment mandatory in every area of governance where consumer interests are affected. This assessment directly impacts the competitiveness of firms and thereby the productivity of the nation.

The efforts at the Central Government level are coordinated under the direction of the Cabinet Secretariat by the Department of Administrative Reforms & Public Grievance (AR&PG), in consultation with the Department of Consumer Affairs. The Department of AR&PG also simultaneously formulates guidelines for structuring a model charter of dos and don'ts to guide Government organisations.

Government Agencies in the Field of Consumer Rights Protection

The Ministry of Consumer Affairs, Food & Public Distribution and its associated Department are responsible for the formulation of policies for Monitoring Prices, availability of essential commodities, Consumer Movement in the country and Controlling of statutory bodies related to consumer affairs. The Department is entrusted with:

1. **Internal Trade:** Trade within the country, particularly within and between the states is in the Department's purview. It is governed by the following legislations:
 - ❑ The Spirituous Preparations (Inter-State Trade and Commerce) Control Act, 1955
 - ❑ Control of Futures Trading: the Forward Contracts (Regulations) Act, 1952
 - ❑ The Essential Commodities Act, 1955 (Supply Prices, and Distribution of Essential Commodities not dealt with specifically by any other Ministry/Department)
 - ❑ Prevention of Black-marketing and Maintenance of Supply of Essential Commodities Act, 1980. Persons subjected to detention there under
 - ❑ Consumer Protection Act, 1986
2. **Working of the Bureau of Indian Standards (BIS)**
 - ❑ *Bureau of Indian Standards (BIS)*, the National Standards Body of India is involved in the development of technical standards (popularly known as Indian Standards), product quality and management system certifications and consumer affairs. It resolves to be



the leader in all matters concerning Standardization, Certification and Quality. Originally set up as *Indian Standards Institution (ISI)* in 1947 as a registered society, under a Government of India resolution, the organization gave the nation the standards it needed for nationalization, orderly industrial and commercial growth, quality production and competitive efficiency. Later under the Bureau of Indian Standards Act, 1986, ISI transformed into present day statutory body BSI.

3. Regulation of packaged commodities in collaboration with the BSI under the provisions of the *Emblems and Names (Prevention of Improper Use) Act, 1952* and the *Standards of Weights and Measures Act, 1976*
4. Training in Legal Metrology
5. Monitoring of prices and availability of essential commodities.
6. Management of Consumer Cooperatives: All attached or subordinate offices or other organizations concerned with any of the subject specified in this list including Forward Markets Commission, Mumbai.
7. Maintenance of Consumer Welfare Fund
8. Supervision of Mumbai Grahak Panchayat

Non-Government Agencies in the Field of Consumer Rights Protection

The holistic vision of development includes not just economic progress for citizens, but also promotion of social justice, gender equity, inclusion, citizen's awareness, empowerment and improved quality of life. To achieve this vision, the state requires the productive and shared engagement of the civil society in its various developmental activities and programmes. Although the Government of India has the ultimate responsibility for development to its citizens in India, several non-governmental organisations also act as the operational arm of the civil society and thereby have an important role in the development processes.

Numerous NGOs are working in the field of consumer protection. Consumers are free to take advice and assistance, in case of any grievances caused by producer/company/seller. One can lodge complaints with some NGOs like Consumer Grievance, Consumer Guidance Society of India, Common Cause, and Consumer Forum. NGOs not only help in filing a case but also they provide logistic, manpower and other supports. They also conduct various programmes to educate consumers about their rights and responsibilities. One can also approach consumer help organisation called 'Jago Grahak Jago'. The aim of consumer right protection organizations is to establish and to attempt to enforce consumer rights. Effective work has also been done, however, simply by using the threat of bad publicity to keep companies' focus on the consumers' point of view.

Some of the leading NGOs working for the protection of consumer rights are:

1. **Consumer Education and Research Centre (CERC)** is a non profit, non government body, committed to the protection and promotion of consumer interests through active use of research, media, law, advocacy and information dissemination.
2. **Federation of Consumer Organisations in Tamil Nadu (FEDCOT)** is working for the promotion and development of consumers' interest and their welfare. It acts as a research, training, education, and awareness creating advocacy group. It builds linkages and works in partnership with community-based organisations and grassroots communities to strengthen their capacity and empower them to participate through initiatives in socio-economic accountable governance, sustainable agriculture, gender equalization and ecological activities.
3. **Citizen consumer and civic Action Group (CAG)** is an NGO that works towards protecting





citizens' rights in consumer and environmental issues and promoting good governance processes including transparency, accountability and participatory decision-making.

4. **The Consumer Guidance Society of India (CGSI)**, a Mumbai based NGO, is the earliest known consumers organization in India, founded by nine women in 1966 and it was the first to conduct formal product testing in 1977.
5. **Consumer Unity of Trust Society (CUTS)** was founded in Rajasthan in 1983 from a rural development communication initiative, a wall newspaper Gram Gadar (Village Revolution). This is published monthly and has been helpful in providing a forum for the oppressed classes to get justice. On seeing Gram Gadar, Rubens Ricupero, the fifth Secretary-General of UNCTAD observed: "It confirmed my view that often the simple lack of awareness lies at the root of so much misery".

10.6 Conclusion

Redressal mechanism plays an important role in the implementation of the different rights for the citizens of a country and provides relief in case of violation of rights. The Constitution of India guarantees human rights through its provisions on Fundamental Rights and Directive Principles of State Policy. Under the protection of Human Rights Act, 1993, various institutions such as National Commission on Human rights, State Commissions on Human Rights and Human Rights Courts have been established all over India. These institutions have taken reliable steps for the redressal of grievances against the violation of human rights. The three-tier judiciary system works to ensure the enjoyment of human rights by common people.

We have different redressal mechanisms working at different level in the different fields so that all citizens can enjoy their fundamental rights, realize their fullest potential and improve their quality of life. India adopted the right to education (the RTE Act, 2010), the right to health (National Health bill, 2009) and the consumer rights (the Consumer Protection Act, 1986) to safeguard the rights of its citizens. While the governments provide legal and administrative guarantees, the voluntary organisations (NGOs) monitor the efforts of the government to keep them on the right path. Hence, NGOs and the media play a vital role in ensuring the protection of human rights. However, the onus of building a progressive nation and society lies on the citizens their ability to realize their rights and take action to avail of them in full measure.

Read and Respond

The District Magistrate in Sitapur, Uttar Pradesh initiated the '*Lokvani System*' for effective grievance redressal. Find out about the '*Lokvani System*', its strengths and limitations. Discuss the system in your class.

Read and Respond

State Government of Andhra Pradesh initiated a project titled '*Andhra Pradesh Urban Services for the Poor*' (APUSP) to improve municipal services in small towns.

- a) This initiative focused on redressal of grievances of the common citizens regarding the services provided by the Urban Local Bodies (ULBs). Find out what is Urban Local Bodies (ULBs), its role and responsibilities.
- b) This project also initiated the Online Grievance Redressal and Tracking System (OGRTS). Research on the limitation of conventional ways of grievance redressal vis-à-vis the effectiveness of the OGRTS. Discuss it with your teacher in detail. How can this be implemented in other states?



- c) Compare the Lokvani and OGRT Schemes. Find out the similarities and differences in the two schemes.

Read and Respond

There is a road accident. You see a person lying in a pool of blood; you pick up that person and take him to a nearby private hospital where he is not given any treatment because he does not have any money to pay for the services. What will you do in that situation? Can you complain or help him to complain about your grievance to any authority? If yes, then what are steps? Discuss in the class.

Suo Motu Cases and Cases Registered on the Basis of Press Reports Forwarded to the National Human Rights Commission During the Period 01.04.2012 to 28.02.2013 and the Status of Action taken by the NHRC in These Cases

Sources-http://nhrc.nic.in/Documents/suo_motu_feb2013.pdf

Suo motu: In law, sua sponte or suo motu describes an act of authority taken without formal prompting from another party. The term is usually applied to actions by a judge taken without a prior motion or request from the parties.

Case Study-1 (Case No. 2432/4/39/2012)

National Human Rights Commission has taken cognizance of a press report captioned, 'Kids thrashed for refusing insect-infested school meal' that appeared in 'The Hindustan Times' dated 16.7.2012. The press report alleges that Sanjay Kumar, aged 12 and his brother, Chandeshwar Kumar, aged 13- students of Class-VI of a school at Mithani Milki village of Vaishali district near Patna were allegedly thrashed by their headmaster till they fainted for refusing to eat a mid-day meal of khichdi in which they found insects. The headmaster reportedly told them to pick the bugs out and get on with eating the meal. When the boys refused to do so, the headmaster allegedly caned them mercilessly. The children's father-a member of the Scheduled Caste-rushed them to a primary health centre for treatment and later, he lodged a complaint with the police against the headmaster.

The Commission vide its proceedings dated 16.07.2012 issued notice to the Chief Secretary, Government of Bihar and the District Magistrate, Vaishali to submit a report in the matter within four weeks. The Chief Secretary, Government of Bihar was also directed to inform the Commission as to what steps are being taken by the administration for monitoring and supervision of mid-day meal scheme in the schools including the quality of food being served to the school children in Bihar. The SP Vaishali, Bihar sent a report dated 5.12.2012. As per the report, after investigation, a chargesheet has been filed before the Court against the Headmaster of the school for beating the two students Raja and Chandrasekhar on 14.7.2012. The incident relates to crime no. 228/12 u/s 341/323 IPC and section 3 (10)SC/ST (PA) Act, PS Gorol (Katara OP).

The report did not mention if any interim monetary relief or compensation had been paid to the victim students under the provision of Rule 12 by the DM, SDM or any other Executive Magistrate of the area on filing of chargesheet against the accused headmaster under the provision of Section 3 (X) of the SC/ST(PA) Act 1989. The monetary relief as per the provision of scheduled annexure 1 to Rule 12 (4) of SC/ST (PA) Rules 1995 is required to be paid to the victims. The amount of monetary relief is to be determined according to the nature of the offence. The payment of 25% has to be made when chargesheet is sent to the court and the rest on conviction. Thus, 25% of the compensation/monetary relief that might be determined by the DM or SDM under Rule 10 (4) of the rules is required to be paid to the victim students after filing of the charge sheet.





The Chief Secretary, Government of Bihar did not send the report called for by the Commission vide its communication dated 18.7.2012 regarding the steps being taken for monitoring and supervision of the mid-daymeal scheme and quality of food being served in the schools of the State. Vide proceedings dated 22.02.2013, the Chief Secretary, Government of Bihar, Patna, has again been directed to send a detailed report in the above points within six weeks positively. The DM, Vaishali, Bihar, has also been directed to send a report along with proof of payment within six weeks, regarding payment of interim monetary relief to the victim students of SC community under the provision of Rule 12 (4) of SC/ST (PA) Rules 1995. Response received in the matter is under consideration of the Commission.

Case Study-2 (Case No. 1788/12/21/2012)

National Human Rights Commission has taken suo motu cognizance of a press report captioned, 'Stabbing victim bleeds to death at Indore police station' that appeared in 'The Indian Express' on 23.8.2012. The press report alleges that Ravi Dangi, aged 19 years and his friend Ankit Agrawal were stabbed by four youths in Anandnagar. Their relatives took them to the Rajender nagar Police Station where, television footage showed that the police, instead of taking the injured immediately to the hospital, got busy with paperwork, recording the statements for the next half an hour. Thereafter, Ravi was taken to the hospital where he was declared dead on arrival.

The Commission vide its proceedings dated 23.8.2012 issued notice to the Director General of Police, State of Madhya Pradesh to submit a report in the matter within four weeks. Pursuant to the directions of the Commission, the Additional DGP, Madhya Pradesh, forwarded inquiry report dated 27.08.2012 of the SP (HQ). The allegation of negligence on the part of the police was denied. The inquiry report mentions certain documents which were considered and which are mentioned as annexure to the report. However, these annexures have not been received in the Commission alongwith the report.

The Commission vide proceedings dated 26.02.2013 has directed the DGP, Madhya Pradesh to forward to the Commission all the annexures mentioned in the report dated 27.08.2012 of the SP (HQ). In addition to these annexures, he has also been to forward copies of the postmortem report and inquest report as well as GD reports dated 21.08.2012 concerning this case. Response was to be submitted within four weeks.

Case Study-3 (Case No. 1536/18/4/2012)

National Human Rights Commission during its visit to the Primary Health Centre, Khuntuni, District Dhenkanal and Community Health Centre, Behrampur, Odisha on 11th April, 2012 noticed serious irregularities on the part of government officials of the State amounting to violation of human rights of the citizens. Accordingly, the Commission vide its letter dated 29.06.2012 transmitted a copy of the inspection report to the Secretary, Department of Health, Government of Odisha calling for an action taken report in the matter within four weeks. Despite reminders, the report was not received. Hence, the Commission vide its proceedings dated 13.12.2012 has issued conditional summons to the Secretary, Health, Government of Odisha to submit report on or before 08.3.2012 or appear before the Commission on 15.3.2013.

Case Study-4 (Case No. 30578/24/17/2012-wc)

National Human Rights Commission has taken suo motu cognizance of a press report captioned 'School denies admission to gang rape victim in UP' that appeared in the 'Deccan Herald', Delhi dated 1.09.2012. The Press report alleges that a 14 year-old Dalit girl was gang raped a few days back. The culprits has also made an MMS of the incident and circulated it in the market, revealing her identity and making it difficult for her to go out. When the parents of the victim,



in an apparent attempt to allow her to overcome her trauma and start life a fresh, approached a school for her admission, the school refused to admit her on the ground that the parents of the other students have threatened to withdraw their wards if the girl was admitted at the school.

A chargesheet in Crime No. 75/12 U/S 376 (2) (g)/506 IPC and Section 3 (1) (xii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has already been filed in the Court. The Commission had asked the District Magistrate if the statutory relief under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, had been paid to the victim. The District Magistrate, Bijnor, has informed the Commission vide his letter dated 19.12.2012 that earlier a sum of ₹ 6,250/- was paid to the victim, being 25% of ₹ 25,000/- payable under entry at Serial No.10 in the Annexure-I of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995. However, the case being covered by entry at Serial No.11, 50% of ₹ 50,000/- is payable and, therefore, the balance of ₹ 18,750/- has been paid to the victim. Upon consideration of the report, the Commission vide proceedings dated 14.02.2013 observed as under:

"The incident of rape took place sometime in August, 2012. Hence, relief under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, is payable as per the amended norms for relief published in the official gazette on 23.12.2011. As per the amended norms under entry No.11 and 12, a sum of ₹ 1,20,000/- is payable to the victim. 50% of this amount is required to be paid after medical examination. Hence, a sum of ₹ 60,000/- is payable to the victim at this stage, whereas, she has been paid only ₹ 25,000/- as per the old norms. Hence, the District Magistrate, Bijnor, is asked to do the needful and submit a report to the Commission within four weeks".

Case Study-5 (Case No. 563/10/4/2012)

National Human Rights Commission on 21.08.2012 took suo motu cognizance of a newspaper report captioned 'No father's name, boy refused admission' appeared in the English daily 'The Hindustan Times' dated 16.08.2012. As per the report a three year old boy Swaraj is being denied admission by his local Anganwadi as his mother failed to fill up the name of father of the child. The report says, Swaraj was born when his mother was 17, after the man who promised to marry her vanished from her life and he is not ready now to admit the child is his. While observing that under the Right to Education Act, every child is entitled to education and denial of admission to a child is violation of his right to education, the Commission vide its proceedings dated 21.8.2012 directed to transmit a copy of the news paper report to the Chief Secretary, Govt. of Karnataka to look into the matter and take appropriate action.

Case Study-6 (Case No. 2292/22/15/2012)

National Human Rights Commission has taken cognizance of a press report captioned 'No admission for Dalit children' that appeared in the December 10, 2011 edition of The New Indian Express in Chennai forwarded by Shri Sruthisagar Yamunan, Journalist, in his e-mail complaint dated 10.8.2012 alleging discrimination against Dalit children in Kurayur village in Madurai. The press report alleges that the children of the Dalit families in Kurayur village near Kalligudi in Madurai district have been barred from admissions to the Government Middle School in the village by the dominant Hindu Caste. The Dalit children are forced to study at a missionary-run government-aided school on the border of the village, which has poor facilities. The school officials, who have been working there since early 1990s, said that they do not recall even a single Dalit student ever studying in the school.

The Commission vide proceedings dated 28.8.12 issued notice to the Chief Secretary, Government of Tamil Nadu to submit a report in the matter within four weeks. Response received in the matter is under consideration of the Commission.





Unit End Reflections

Comprehension Questions

1. What do you understand by Redressal Mechanism?
2. What is the significance of Redressal Mechanism in protection of human rights?
3. Differentiate between judicial and non-judicial redressal mechanism.
4. Discuss the recommendations of the National Advisory Council for strengthening the Right to Education.
5. Elaborate the steps that have been taken by the Government of India to redress the healthcare sector.
6. What are the rights of consumers under the Consumer Protection Act of India?
7. How does the redressal mechanism work with Right to Education?
8. Discuss the National Health Bill, 2009.
9. How do NGOs help the consumers to protect their rights in India?





GENDER STUDIES

UNIT-1

Introduction to Gender Studies



1.1 Understanding Basic Concepts

These are some of the activities that are required to be done to keep homes functioning. These activities take a lot of time, and many are required/expected to be done on a daily basis. The people who do them spend a lot of energy and may be exhausted by the time they are finished. Most of the time, women perform these tasks. Put together, these tasks are called *housework*. Given this name, it may be surprising to learn that housework is not considered to be work in economic or social terms. It is seen as a set of tasks that is naturally performed by the women of a household. It is not, for example, calculated as part of the country's *Gross Domestic Product* (the sum of all goods and services produced in a country in a given period). This is in spite of the fact that if the women of the house are unable or unwilling to do these tasks, other people will be hired to do them - but only if they are paid to do so.

These examples reflect certain changes in viewpoint that are very significant from the point of view of gender studies. They reflect a change in perspective - a change in the way things are looked at. *Gender studies is a field of study that looks at the world from the perspective of gender. This means that while studying something - the distribution of resources within a household, a social unit like a caste group, a bill placed before Parliament, a development project, the classification of different species - are done in a manner that takes into account the fact that different genders exist in the world.* These genders are differently placed within social reality such that various processes impact them differently.

Thus gender studies recognises that gender has to be taken seriously. It is also a field that recognises that often, within academic disciplines and also other spheres of society, the perspective that has been applied has been that of the most powerful people in society, and that this is often at the expense of less powerful people. Gender studies then exists as an important means of correcting such imbalances.

Gender studies refers to the academic study of the phenomena of gender.

What is meant by '*gender*'? Within feminist thought, a distinction has been made between '*sex*' and '*gender*'. Sex here refers to the fact of being either male or female, and gender to the cultural and social ideas of masculinity and femininity that are assigned to different sexes. Gender refers to those traits and



Fig. 1.1: Features of Gender Studies



characteristics that a person is expected to possess by virtue of being male or female, as well as the different roles that the person is expected to perform. For example, women may be seen as naturally caring and nurturing, while men may be seen as naturally rational and logical; this may lead to the belief that women are naturally suited to jobs like nursing, while men will make good scientists and engineers. The traits associated with masculinity and femininity varies across different cultures and societies, as well as different periods in history.

Gender studies looks at the manner in which the norms and patterns of behaviour associated with masculinity and femininity come into being. It studies the features of these norms and patterns - which traits are considered masculine, which feminine, and why so? How do stereotypical models of men and women develop? How do they change over time, and what factors contribute to changes? Also, and very importantly, what impact do such stereotypes have upon actually existing men and women?

This last point - that gender studies also has a focus upon actually existing men and women - is significant because within gender studies, there is a recognition that men and women do not exist in isolation from their other social roles and positions. A woman is not only a woman - within our society, she also has a certain class position, caste position, religious identity, sexual identity, and many more. All of these factors impact her life - therefore while studying her life, all these factors need to be taken into consideration.

Another feature of gender studies is that it examines how the world is gendered. Some examples can explain this concept in clearer terms:

Think of the difference in clothing for girls and boys. Skirts, saris, salwar-kurtas are seen as feminine clothing, and trousers, shirts, sherwanis, etc. as masculine. There are other differences too - feminine clothing is often more colourful than masculine clothing, more likely to be decorated.

Sometimes there is an overlap in men and women's clothing. For example, both men and women may wear denim jeans. But even here, it can be noted that there are differences - in cuts, i.e. in how the jeans fits the wearer (tight or loose), in colours and embellishments (embroidery, sequins, crystals etc.). Thus even in common items of clothing, there are differences. Clothing is gendered. It differs for both genders, and in doing so; it allows determining whether the wearer is male or female.

Sometimes men and women do wear clothing that is absolutely identical. For example, a school uniform may also consist of a tie that both girls and boys have to wear. In this case, can it be said that the tie is also a gendered article of clothing?

From a gender studies perspective, it will be seen that clothing that is common to both men and women is often men's clothing that women have adopted. Neckties would be an example of this. Think of other examples. It may be noticed that both men and women go to work in offices wearing business suits - trousers

Read and Reflect

Think of two women. One who teaches in a school and one who is a construction worker. What kind of differences and commonalities can you visualize in their working lives?



Fig. 1.2: Clothes are also gendered





and jackets. These are masculine clothes that have been adopted by women. It is much less common to find examples of women's clothing that have been adopted, on a large scale, by men. It is not usual to see men going to work wearing saris. This example also indicates another area that gender studies focuses on - that of power differences between genders. It is more common to see the powerless adopting the characteristics of the powerful, than the powerful adopting the characteristics of the powerless.

1.3 Life in a Gendered World

People may advise a young person on subjects to take up in school or college by saying, "you should study this - it is a good subject for a girl" or "that is not the right subject for a boy". In this way, education is also gendered, as is the job market - different opportunities are considered to be appropriate for girls and boys. Certain careers are gendered - nursing, for example, is a profession that has more women than men and which is not deemed appropriate for men. Physical spaces may be gendered. Think of the roads of a city - can anyone be out on the street at any time?

There are no rules prohibiting anyone from going out onto the street. Yet it is found that women do not stay out on the streets as late as men do. Women also do not spend time hanging around on the streets - at a teashop, for instance, alone or chatting with friends. Men and women thus have different kinds of access to streets, and have different experiences of being out on the streets. In these ways, physical spaces are also gendered.

Read and Reflect

You may have observed seats being reserved for women on public transport. What does this say about public transport being gendered?



Though Living on the Same Planet,
We Grow Up in Gendered Worlds

Thus various aspects of the living world are gendered. They differ for different genders, the experiences of them differ in ways that depend upon the gender. The study of the gendered nature of the social and physical world is an important part of gender studies.

The perspective of gender studies can be applied to a variety of situations, examples of which have been given. These examples are all from different academic disciplines - sociology, political science, biology, law, and economics. Thus gender studies encompass many disciplines. It is multidisciplinary. This is an important dimension of gender studies because it has also pointed out certain gaps in various disciplines.

The origins of gender studies lie in women's studies. Women's studies came into being in order to address the gaps and imbalances in academic knowledge that resulted from an inadequate incorporation of women into academics. Many women's studies scholars have pointed out that often, academic disciplines would not take women into account when developing theories and concepts, or when doing research and collecting data. An example of this has been given above - women's unpaid housework is not calculated as part of our country's GDP. If the GDP is to reflect the total of the goods and services produced in the country, shouldn't it then include housework? If it doesn't, isn't it then inaccurate? A gender studies perspective can, in this way, indicate and correct



imbalances and inaccuracies in various disciplines. It can also ask the significant question - why have these errors and imbalances come into being? Why have various disciplines not recognised the contributions of women? Why have these contributions been devalued and/or ignored?

Gender studies has, in this way, questioned the theories and underlying assumptions of many disciplines. In doing so, it has also developed new tools and techniques for research.

One of the most significant dimensions of gender studies is that it is political. It raises questions about power in society, and how and why power is differentially distributed between different genders. It asks questions about who has power over whom, in which situations, how power is exercised, and how it is, and can be, challenged. Different theories and perspectives within gender studies have different approaches to these questions, and look for answers in different social processes. Many debates are on going, as new data is revealed and new theories are put forth.

1.4 Gender: Concept

Excerpt from a boy's diary...

*"I have a friend who has long hair,
No you guessed it wrong,
That friend is not Siya or Ria, his name is Rajan.
I like the way Ajay takes care of his baby sister,
But it is sad that a few boys ridicule him for this, why?
The other day when I saw women in mountains carrying heavy loads,
I felt how wrong I was to think only men are strong."*

As a discipline, gender studies has developed certain terms and concepts which are used while studying the phenomenon of gender. An understanding of their meaning and implications allows us to see and connect various aspects of it.

1.5 Sex vs Gender

Read and Reflect

In our society men and women perform different roles and are assigned different responsibilities. Why is it so? Is this natural or has society made these rules?

The terms sex and gender are closely related.

Understanding of the social construction of gender starts with explaining the two concepts, i.e., gender and sex. Often these two terms are used interchangeably; however, they bear different meanings as concepts.

'Sex' refers to the biological and physiological characteristics that define men and women. It is defined as the anatomical and physiological characteristics that signify the biological maleness and femaleness of an individual.

'Gender' refers to the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for men and women. Gender emphasizes that masculinity and femininity are products of social, cultural and psychological factors and are acquired by an individual in the process of becoming a man or woman.

Sex, as defined earlier, is the concept that emerges from anatomical and physiological characteristics that differentiates males and females biologically whereas gender can be seen as a social construct manifested by masculine and feminine roles prevalent in a culture or a society. Thus, gender can be seen as an artefact of social, cultural and psychological factors which are attained during the process of socialization of an individual.

What is the significance of the concept 'gender'? In talking about the social and cultural construction





of masculinity and femininity, gender allows us to see these dimensions of human roles and personalities as based not on nature but on social factors. It then allows us to address issues like subordination and discrimination as issues where change is possible.

Therefore, the meaning of sex and gender, femininity and masculinity, fluctuates within societies and cultures across the globe.

The key differences:

SEX	GENDER
It is natural	It is a social construct.
It is biological. It denotes to visible differences in genitalia and related differences in procreative function.	It is a socio-cultural construct and it refers to masculine and feminine qualities, behaviour patterns, related roles and responsibility, etc.
It is a universal term	It is variable. It changes under the influence of time, geographical and socio-cultural settings.

1.6 Gender as a Social Construct

Gender roles are inculcated during the process of interaction with people and norms in the society. But children learn it not only as external influence, but also as internal relation since their infancy. Children observe and gradually internalize the gendered behaviour around them through different medium and sources. Gender-differentiated children's activities gradually cement the gender difference in behaviour that later reflect in the nature of adult male and female behaviour.

Gender refers to culturally constructed roles that are played by women and men in society. Further, gender is used as a concept to analyse the shaping of women's and men's behaviour according to the normative order of a society. Gender as a conceptual tool is used to analyse the structural relationships of inequality existing between women and men, as reflected in various aspects of life such as the household, the labour market, education and political institutions. Sex, on the other hand, refers to the biological differences between female and male which are seen as uniform across time and space. *Gender can therefore be defined as a notion through which the social and ideological construction and representation of differences between the sexes can be understood.*

Gender is a complex phenomenon which is socially and culturally constructed. An individual acquires gender through a process of socialization, i.e., the person acquires the gendered body - feminine or masculine - in the course of social development. The construction of femininity and masculinity plays an important role in shaping various institutions like the family. Understanding of gender in relation to society leads to a reflection on the existing power relations between women and men. Children are socialised into performing the gender roles required of them. For example, young girls may be encouraged to play with dolls, and when they are slightly older, may be expected to participate in housework. It is in these ways that they come to learn what codes of behaviour are considered appropriate for them, which norms they have to conform to.

Read and Respond

Do you think nature created boys and girls to be equal? Give reasons.

In what ways are boys and girls similar? In what ways are they different?

How do you feel when someone says, "Don't do that. You are a boy/girl"?



Name a profession that only men or only women can pursue.

Do people treat boys and girls in the same way? Give reasons.

What do you like best about being a boy/ girl?

Is there something that you really want to try but aren't able to because of your gender?

Read this folktale of a young princess who made possible the otherwise seemingly impossible last wishes of her father.

A Worthy Daughter A Rajasthani Folktale

(www.manushi-india.org/pdfsissues/PDF%zofiles%2091/aworthydaughter.pdf)

Thakur Ari Singh was lying on his deathbed surrounded by relatives and friends. He had only one daughter, Lhalarde, who was standing motionless near her father. The atmosphere was tense. There was no hope of survival for Ari Singh.

As it is customary to find out the last wish of a dying man, one of Thakur's relatives asked him for his last wish, in the hopes that the members of his family could fulfil it. Thakur's lamp of life suddenly fluttered and a light twinkled in his eyes. With a soft smile, he said, "I have seen the ups and downs of life. Many of my wishes were fulfilled and I enjoyed and lived life fully, but I still have two wishes which remain unfulfilled." All those around Thakur spoke together assuring him of fulfilling his wishes and requesting him to spell them out.

Ari Singh mumbled, "My first wish is that you go to Gujarat and fetch horses from there. My second wish is that the famous folk song of Rajasthan, Todarmal be sung in our house." Todarmal is a welcome song sung when a bridegroom comes back to his house with his bride. His relatives suggested that this wish could be fulfilled if he adopted a son, but to fetch the horses from Gujarat was not possible. There was silence all around. His daughter, Lhalarde, suddenly broke this silence and assured him that both his wishes would be fulfilled. Thakur heaved a sigh of relief and in the next moment he died peacefully.

Lhalarde performed all the last rites. The only job left for her to do was to fulfil her father's wishes. She disguised herself as a young man and left for Gujarat riding on a horse. On her way to Gujarat, she came across a Rajput warrior accompanied by a barber. The warrior was also going to Gujarat to get horses. He suggested that since they had a common aim, it would be better to make a united effort. Lhalarde liked the idea and accepted his suggestion.

The King of Gujarat had a select breed of horses which were known far and wide. They were left free to graze in the green pastures of Gujarat near a big tank. A drum was kept there and if anyone wanted to take the horses, he had to beat the drum. Hearing the drum, brave soldiers of the King would come to fight off the aspirant. If the aspirant won, he could take the horses of his choice.

Lhalarde, the Rajput warrior, and the barber were now near the tank where the horses were grazing. Lhalarde suggested that she would beat the drum and stop the advance of the soldiers. Meanwhile, the warrior and the barber could take the horses with them. The warrior and the barber were happy with the plan.

The operation started. Lhalarde beat the drum. The





Rajput warrior started gathering up the horses. When the soldiers arrived on the spot with their commander, they found only one person there. The commander taunted, "You are alone, we never fight with a single man."

"You can fight singly by turn, and the result can decide your fate." Still in the disguise of a young man, Lhalarde laughed and then said, "We don't have to decide the issue by fighting a duel. I suggest another way to settle the matter. I will dart my lance into the earth and if your soldiers can pull it out single-handedly, I will accept my defeat."

After the commander accepted this challenge, the lance was hurled into the earth. Each of the soldiers tried to pull it out but did not succeed. Even the commander tried and failed. Lhalarde won and was free to pick out the horses of her choice.

Now Lhalarde joined the Rajput warrior. They agreed to distribute the horses equally between them, but the number was uneven so one horse was left out. The Rajput warrior wanted the young man to have it, but Lhalarde refused and cut the horse into two with her sword. As she slashed it in two, the barber noticed that Lhalarde was a pretty young lady in the disguise of a young man. He spoke to the warrior about it. The Rajput warrior bluntly questioned the young man who readily disclosed the facts and said that she had to do this in order to fulfil the last wishes of her father.

The Rajput warrior was happy to be in the company of such a brave woman and proposed marriage to her. Lhalarde replied that she would only marry him if he would accept her condition - he would have to wear the clothes of a bride and she would go to his house dressed as a bridegroom and carry him to her house after marrying, so that Todarmal could be sung at her house. The Rajput warrior listened patiently and found himself in an embarrassing situation. The barber advised him to accept the condition, as it was his good fortune to marry such a brave woman. The warrior accepted the proposal. Lhalarde married him and took him to her house. The Todarmal was sung by the women, thus fulfilling the last wish of her father. Time passed Lhalarde had two sons who were so brave that one day they brought a lion from the jungle, catching it by its ear. Their father was convinced that it was not wrong to have accepted the conditions set by Lhalarde.

Discuss in pairs reflecting upon the story:

- What were the two wishes of Thakur Ari Singh? Why did they seem impossible?
- Why did the Rajput Prince agree to the conditions of Lhalarde?
- How does this story challenge your notion of masculine strength?
- How does this story defy gendered norms?

1.7 Gender Stereotypes

Gender stereotypes emerge from how individuals and groups and groups generalize roles played by individual as well as groups and perceived differences existing among them. Stereotypes do not communicate the correct idea irrespective of its being positive or negative gender has been part of stereotypes. Our society since long and can be traced into historical writings to literary work. Consider the following excerpts, from ancient times to the present:

- ❑ "Woman is more compassionate than man and has a greater propensity to tears... But the male... is more disposed to give assistance in danger, and is more courageous than the female". (Aristotle, cited in Miles, 1935).
- ❑ "To call women the weaker sex is a libel; it is man's injustice to women. If by strength is meant brute strength, then, indeed, is woman less brute than man. If by strength is meant moral power, then woman is immeasurably man's superior. Has she not greater intuition, is she not



more self-sacrificing, has she not greater powers of endurance, has she not greater courage? Without her, man could not be. If nonviolence is the law of our being, the future is with woman. Who can make a more effective appeal to the heart than woman?" (Mahatma Gandhi, cited in Mind of Mahatma Gandhi, 1960)

- ❑ "A man will say what he knows, a woman says what will please." (Jean Jacques Rousseau, *Emile*, 1762/1955)
- ❑ "Man with the head and woman with the heart; Man to command and woman to obey; all else confusion." (Alfred, Lord Tennyson, 1842)

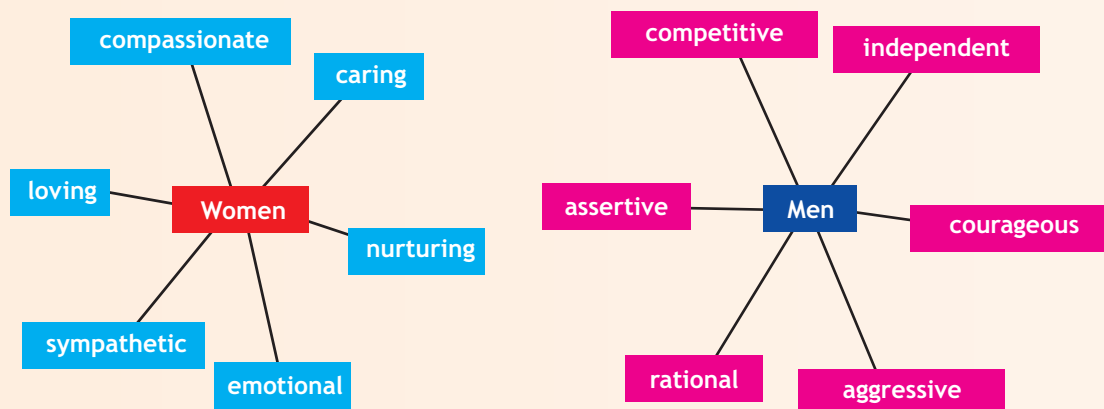


Fig. 1.3: Common Gender Stereotypes

These stereotypes are damaging and can hinder an individual's personal and professional growth as well as expression and creativity. According to a research done in the 1960's, researchers came up with a list of what personality characteristics they consider typical of men and women.

Besides these, a list of other gendered lists for physical characteristics (tall, strong, and sturdy for men; soft, dainty and graceful for women), occupations, and activities or behaviours were also tabulated. The variety of these attributes identified as masculine or feminine, till date have a wide acceptance, and their stability over time suggests that gender stereotypes are deep-seated in people's minds. Do you agree with the characteristics listed in the table? Do they match with what you see around you?

Read and Respond

Gender stereotypes significantly attribute to the status quo in terms of women and men's roles. Furthermore, they are one of the most persistent causes of inequality between women and men in all spheres and at all stages of life, influencing their choices in education, professional and private life.

Suggest some ways to break the existing stereotypes.

Read and Respond

Think of some words associated with jobs individual do (e.g. repairman, chairman) and suggest how these can be made gender neutral.

1.8 Gender Roles and Relations

Gender roles can be defined as the social roles that a person is expected to fulfill based upon his or her gender. These vary in different social, cultural and historical contexts. They vary among different societies and cultures, classes, ages and during different periods in history. Gender-specific roles and responsibilities are often conditioned by household structure, access to resources, specific impacts of the global economy, and other locally relevant factors such as ecological conditions (FAO, 1997)





Gender relations are the ways in which a culture or society defines rights, responsibilities, and the identities of men and women in relation to one another (*Bravo - Baumann, 2000*). Men and women respond to different situations and conditions differently, this is not because of their biological traits but because of their socially and culturally endorsed roles; therefore they ascribe to acquire distinct and diverse sets of knowledge and needs.

In many societies across the globe a differentiation is seen between the roles and relations of men and women.

Read and Reflect

Shifting gender relations

The modern life has very much changed the family structure and the gender roles have been shifting from the traditional structures of responsibilities and roles.

These families can be seen taking decisions respecting each other's views, expressing opinions openly, critiquing and encouraging mutually and yet being independent and responsible. The society- defined gender roles are changing with this societal change and many families are trying to cope with the dilemma of the gender roles.

The socio-cultural norms of a society are instrumental in demarcating the gender relations. They indicate the way men and women relate to each other in a socio-cultural setting and subsequently lead to the display of gender-based power. This develops from the expected and gendered roles assumed by men and women and the impact of their interactions. A good example of this is '*the family*'. In this setting the man assumes the provider and decision maker's roles and woman takes-up the familial and childcare roles. These power relations are biased because the male has more power in making financially, legally and socially influential decisions. Roles, assumed attributes and socio-cultural norms lead to the designing of behavioural blueprints. Those who do not conform to these roles, are seen to be 'deviant' as per the societal standards. In most of the societies, the family systems are based on the similar structure of such gender roles and these stringently structured roles are pre-designed, that rein members of the family to be in this institution with bound responsibilities.

Gender role is constructed to make the people living in particular society to follow it. Around an individual, there exists many influential elements who blindly assume the assigned roles. From parents to peer group, the mass has been so conditioned that even unknowingly, a person adheres to the specified gendered role. The way in which gender roles are absorbed and assimilated by a group of people describes the influence of society.

The role of a man and a woman in society is influenced by a variety of factors. These factors vary with region, religion, culture, climate, historical beliefs, ideologies and experiences, across the globe.

1.9 Patriarchy

Patriarchy literally means the '*rule of the father*'. Within gender studies, the term refers to a social system wherein men dominate over women. Male dominance can be expressed in various ways - for example, within the institution of the family, in the greater rights given to men, through the ownership and control by men of resources like land and other assets.

Patriarchy takes different forms in different social and historical contexts. This is because patriarchy is a system which interacts with - i.e., it is shaped by, and shapes - other systems in society. It operates differently in different communities, economic systems, countries, etc.

A patriarchal society is a society controlled, and run by men. Men devise the rules and hold dominating positions at home, in community, in business and government. '*A man's world*', is a phrase that is used to talk about this. They hold the privilege of listing out rules and dominate in all aspects/arenas both inside and outside the home. In such a societal setup a woman is seen more as supplementing and supporting a man (behind every successful man is a woman), bearing children and taking care of household chores. This is how it is and has been for ages in many cultures.

Feminists used the concept of patriarchy in early 20th century to expound the social arrangement of



male dominance over women. The underlying ideology of a patriarchal society is all about the men possessing superior qualities or typical attitudes and traits like -virility, strong will power, authority, dominance, bullying, shrewdness, maintaining confidentiality, social associations and network, action oriented, having a free will, a sense of superiority over others (outlook, race, gender), brute force, belligerence, carrier of family legacy so on and so forth.

Read and Respond

How can our societal norms and structures change if it becomes matriarchal? List the way roles and relationships would differ from what they are now?

Thus, in a patriarchal social structure, the patriarch is an elder holding societal legitimate power over a group in the community unit. Men acquire a dominant status not in terms of numbers or in strength, but by means of having a more prominent and powerful social position and having almost absolute access to **decision-making power**.

There are a variety of ways in which patriarchy can be enforced. Authoritarian traits are typical of patriarchal societies. Women are unaware of their rights to power and are not uplifted leading to the encouragement of males to lead the line. This expurgation of women's rights distances women and fails to provide them with relevant role models.

Read and Reflect

Walby's reconstruction of patriarchy defines it as a system of social structure and practices in which men dominate, oppress and exploit women. She identifies six structures of patriarchy such as household production, paid work, male violence, culture, state and sexuality. Her analysis of patriarchy has shown the changes which have occurred in history. For example, her understanding of patriarchy from private form to public form. Private patriarchy describes the subordination and exploitation of women around family and household. The public patriarchy explains the exclusion of women from public life and reflects various forms of discrimination faced by women in public space. Walby comprehends that patriarchy has changed its form, as she puts it, rather than being restricted to the household, women have the whole society in which, to roam and be exploited.

(Sylvia Walby OBE, is one of the world's leading authorities on gender. She is a British sociologist, currently Professor of Sociology at Lancaster University. She is noted for her work in the fields of the domestic violence, patriarchy, gender relations in the workplace and globalisation.)

Read this story by 'Ambai'. The protagonist, in the story, is a feminist supporter. The story is based on her visit to a library, which is full of radical writing. And how she feels and perceives it. The awful state in which the books are dumped, and one final statement at the end, that because of not being able to maintain them, they would be burnt. The books here also act as protagonist much like a character themselves holding narrative, incidences and stories in themselves. There's a squirrel, which operates as a connect between the "mystical and the real", or rather the "dream and real" for the protagonist. The squirrel as a character is rather indicative. It stands for the conscience or the inner voice of the narrator. The shift between illusions and reality and vice versa is made through the symbolism of the squirrel.

The Squirrel

- by Ambai

Standing with legs planted on facing shelves, his head hidden in clouds of dust, one hand pressed to his throat to control an imminent sneeze, he seemed, as I craned my neck to look at him, a good, obedient genie conjured up with a rub of the wonderful lamp.

"What is there at the top, sir?"





"Dust, dust!"

"No, sir, I mean what books!"

"I'll see, madam. People write many good books without having to do all this climbing. This is rubbish, madam, just rubbish."

"If you like, I'll climb up, sir!"

"No, madam! This is my duty." He let fly ten sneezes.

"These are just women's books. Do you want them?"

"Throw them down, sir."

They fell with a thud. Volumes of 'Penmadhi Bodhini' and 'Jaganmohini', followed by lots of others. The sight of them crashing through the roof, splitting open even this grew familiar. For someone who doesn't believe in miracles, here was an overdose. As my finger touched the spine of a mended, nineteenth-century book, a tremor rose from the sole of my foot, like an excitement. Anna Sattianandhan on her deathbed, asking her husband to pray and, on the third floor, only the squirrel and me to grieve. The woman who first set out on horseback to spread Christianity broke through the meshed windows of this very third floor. A Bengali girl writing to her father, pleading that he should not sell his only house to meet her marriage expenses, set fire to herself and the killing flame chased through this room, like a snake. The flame spread through the third floor, its shape visible to the squirrel and me. The Telugu cataloguer wasn't there that day.

What had appeared on the third floor were not mere books; they were whole generations throbbing with life. Stately matrons wrapped in nine-yard saris, wearing shoes and carrying rackets, playing badminton with the white women. How best can young women please their husbands? So many sermons on the subject, preaching untiringly. Addressing her as "my girl," trying to sound kind, they preached the dharma those women should follow. Nallathangal, chasing her son even as he pleads with her to let him go, pushing him into a well, and jumping in herself. A brahmin priest, stubbornly refusing to perform the last rites for a girl because she is an unshaven widow. Knee-length tresses shorn as she lies dead. Gandhi addressing women spinning at the charka. Uma



Rani of the journal 'Tyagabhumi' declaring, "I am not a slave." "Kasini" giving new patterns for bangles in the women's section. The 'Ananda Vikatan' cover girl walks, swinging her arms, while her husband carries the shopping bag. Tamarai Kanni Ammaiyar-the lotus-eyed one-saying, "Let us give up our lives for Tamil." Her real name in Sanskrit: Jalajakshi. Ramamrutham Ammaiyar angrily confronting Rajaji, who wrote: "Gandhi won't come unless you pay him money." They are all here. I am also here. Sometimes they are like wisps of smoke, weightless, shaved, a heaviness in my heart. Razors appear all around. Each lock of hair falls with a harsh sound and rubs against my cheek, roughly. It is only when the squirrel taps his tail twice and raises dust that my senses return. It is leaning on 'Kalki' with Ammu Swaminadhan on the cover. It has finished eating the glue.



I look down through the hole. The librarian's head is leaning against the chair. On the table, a file titled "Subject: String." His favourite file. Three years ago a shining violet file, now mouldy, corners dog-eared. The file began with a letter saying that a string was needed to separate old magazines, here by month, there by year. The letter in reply said, "It is not a practice to supply string to the library; explain the reason for departing from it." Then the explanation: the magazines that are not separated by month are all mixed up and useless. Useless for whom? For researchers. What researchers? Are they from Tamil Nadu or from abroad? The letters piled up. One day, the librarian pulled out a bundle of string from his trouser pocket, and then wrote a letter asking to be reimbursed for the string. Which set off a series of letters beginning with the query, "Why a bundle of string?" Every evening the file would make its way to the table. He has not yet been reimbursed.

The squirrel chirps. 'Keech. Keech'. My only link with reality. My companion in illusions. 'Keech. Keech'.

I know. It is late. Your glue is finished. But I don't want to leave these women. A magic string holds us together. I hear them talking. As Shanmuga Vadivu's veena strikes the first note of the octave, the sound leaps to my ear. "Beholding the colourful lotus and seeking it, the bee sings a sweet song, utterly lost," sings K. B. Sundarambal. "Utterly lost," echoes Vasavambal from behind, accompanying her on the harmonium. On the Marina Beach, Vai Mu. Ko hoists the flag of freedom. With children in their arms, the women who oppose Hindi go to jail.

See, this is another world! That glue should have infused a little of this world into you. A world for you and me.

"Come down, lady." Smiling, he looks up.

"I'm up here."

He comes up.

"The ruling has arrived."

"What ruling?"

"They find all this mending very expensive. Not many people use these books. Just one or two like you, that's all. How can the government spend funds on staff, glue, etc.? They are going to burn them all. All these old unwanted books."

My mind goes blank. At the edge a small thought rises. So the file about the string has finally come to a close. Only the burial is left.

"Come, lady."

I approach the iron stairs and run back to look once more at the room. The evening sun and the mercury lamp spread a strange light on the yellowed books that are to be burnt. Like the initial flood of fire that spreads over the pyre. He turns out the light.

The darkness mingles with the dull red light changing everything into a magical flame, deep red. The squirrel, with its legs spread out, lies prone before the window as if in surrender. As I go down the stairs, a little wave of thought. The window faces north.

Source: www.world.org Translated from Tamil by Vasanth Kannabiran and Chudamai Raghavan

1.10 Feminism

In the broadest sense, the term '*feminism*' refers to a set of ideas that recognise the fact that women are faced with certain disadvantages because they are women and the belief that this should not be so. It refers to the political practice that emerges from these, a practice which is aimed at changing the situations of women who face systemic disadvantages.





The term 'broadest sense' has been used to describe this definition because there are different types of feminism, which recognise that in the social world women suffer certain disadvantages in comparison to men. However, the different strands of feminism vary in what they understand the root cause or causes of these disadvantages to be. Some of these different strands of feminism will be examined a little later in this section.

Read and Reflect

International Women's Day is celebrated annually on the 8th of March. The German socialist and feminist, Clara Zetkin, was the first to propose that women from every country celebrate a day as Women's Day. March 8th marked the day when women workers in textile factories in New York, USA, had protested against poor working conditions and low wages. The first International Women's Day was celebrated in 1911.

Another common feature of the various strands of feminism is that they do not hold the difference in the social positions of men and women to be based on natural factors. They do not believe that there is anything that women have or lack that makes them inherently inferior to men, or which makes men inherently superior to women. Instead, the disparities in the social positions of men and women have arisen, over long periods of human history, due to social and cultural factors, and must also be countered through social and cultural means.

This last sentence gives an indication of another very important facet of feminism - it seeks to change those dimensions and systems of society which give rise to inequalities between the sexes. Thus, it not only wishes to understand social systems and processes, but also has a commitment to change those that are unjust and discriminatory. In doing so, it realises that the problems that individual women face, for example, violence, exploitation, and discrimination, are caused by broad social and historical factors, and not because of immediate individual circumstances. They must, therefore, be countered through social changes.

Why is feminism an important concept in the field of gender studies? As has been discussed, in the introduction to this unit, that gender studies is a political field of study. It raises questions of power in society, and asks how the balance of power, which favours one gender, can be shifted and made more equitable. It is in this way informed by a certain politics, and historically this has been the politics of feminism.

1.10.1 Different Strands of Feminism

Read and Reflect

In April 2005, UNICEF organised a workshop on girls and school education, where many young girls shared their experiences of schooling. The following is an extract from a report of that conference:

Girls in India are demanding greater, sustained support for equal access to a good education.

Each of the secondary school-age girls at the workshop attended school for at least 5 years despite strong opposition from their families and communities. They spoke of the battle they

Read and Reflect



Savitribai Phule

Savitribai Phule was the first woman teacher in India. She was married at the age of nine, and was educated by her husband, Jyotiba Phule. Phule's father was furious at his teaching Savitribai, but the couple persisted. In 1848 they opened a school for girls in Pune. In 1851 they opened a school for Mang and Mahar girls and in 1853 a home for Hindu widows and their children. Savitribai also started the Mahila Seva Mandal in 1852, an organisation that was aimed at making women more aware of their rights.



had faced while trying to go to school; education, they said, had freed them from chains that had seemed unbreakable and given them lives and opportunities that they had once only dreamed of.

Through theatre, art and story-telling sessions, the girls demanded that schools be located closer to home; that they be safe and clean with functioning toilets; that there be qualified, female teachers, and that education be relevant and meaningful, going beyond the scope of prescribed textbooks.

The proportion of girls who are able to attend school in India continues to remain low in comparison to that of boys their age. The main factors influencing this disparity include poverty and the continuing hold of social and cultural beliefs that discriminate against girls.

(accessed on 23.02.13 from http://www.unicef.org/infobycountry/india_25979.html)

This report can be taken as a starting-point for exploring the different strands of feminism. The report does not explicitly state that the workshop was inspired by feminist ideals or thinking. Yet it reflects many arguments that feminists would make.

One basic feminist argument is that women are not oppressed because they are inherently less capable, but due to social and cultural factors which have developed over time. To correct this, women need to be given the same resources and opportunities that men have. Once they have these, they will have the same advantages, chances and advantages that men enjoy.

It is clearly noticeable here that the girls in this extract have not asked only for school enrolment, but have also indicated that for them, to be able to actually go to school, the school needs to be safe and have functioning facilities. It is only then that the school would be truly accessible for them.

Thus, at a basic level, feminism talks about the fact that men and women need equal rights and privileges. For men and women to compete equally, there needs to be a 'level playing field' - a situation where different people have equal chances and opportunities.

Yet, other strands of feminism ask a different set of questions. They argue that the problem of women's oppression cannot be explained as only one of lack of equal rights or lack of access to resources. Nor can it be resolved by outlawing gender-based discrimination. Instead, they argue that we must get to the root of women's oppression. To do so, one has to look at the relationship between men and women through the lens of patriarchy. This is a system of the oppression of women and the control of family property and wealth, and women's productive and reproductive capabilities, by men.

The advantage of the concept of patriarchy is that, it creates ground to understand the systemic oppression of women. It gives an understanding of the control that is exercised over women. In terms of politics, it points to how measures that seek only to give women access to the things they have previously lacked, are insufficient, as the real problem is not of only a lack of access, but of an oppressive system.

However, various people have pointed to the links between patriarchy and other systems and processes that oppress women in our society.

1.10.2 Feminism and Economy

The social world we inhabit is undoubtedly gendered - it is shaped by gender and has implications for people based upon their gender. Feminism has drawn attention to the manner in which it can be

Read and Reflect

Think about this point - In many parts of our country, the dropout rate of girls is higher than that of boys. What possible reason do you think there could be for this?





seen that the economy is also gendered. There are many examples of this: women's employment outside the home may be concentrated within certain professions and certain types of work, and they may be less likely to own and/or control economic resources and assets.

Read and Reflect

In the 1970s, Bodh Gaya saw a movement by agricultural labourers to reclaim agricultural land, much of which was held by the Bodh Gaya Math. In 1979, the Chhatra Yuva Sangharsh Vahini organised a shibir (camp) where the demand was first raised that the redistributed land be registered in women's names as well as in men's. Why was this demand important? Land is a very significant asset. It is considered a primary resource for the economy, and a source of livelihood and financial security for people. Women made the demand for ownership of land because it would help them to achieve all these things. The lack of ownership of land left them particularly vulnerable.

Feminism has also examined the gendered nature of different types of economic systems - for example, capitalist, feudal, and socialist. Each of these systems had different methods of organising work for the purposes of economic activity. Scholars of gender continue to study these methods, their historical significance, and the ways in which they contributed to relations of power between women and men. Attempts are made to understand the specific implications that these systems have for women, as well as for men. What advantages and disadvantages do they offer? Do all women share the advantages? How are different women placed within, and affected by, the same economic system?

Many feminists who look to the economy to further their understanding of the oppression of women argue that, efforts like reforming hiring policies, distributing family resources equally between men and women, and having active women's groups cannot entirely produce equality between men and women in the economy. On the other hand, they argue that entire economic systems must be transformed in order to truly liberate women (and men) from various types of economic exploitation. This is because they identify a deep and long history of links between economic

organisation of work and income, patriarchal control within the family, and social norms of sexuality and appearance, as the cause for the continuing levels of discrimination in the economy.

1.10.3 Feminism and Gender Studies

Feminism is directed both towards understanding society, and also towards changing those aspects and structures within society that are unjust and exploitative. It, therefore, involves both the growth of knowledge and the betterment of the social world. These are not two separate things, but are interlinked aspects of feminism.

It has been pointed out by few feminist scholars that women's studies (the precursor to gender studies) gave feminist activists information and insights which activists needed for their work - for example, information on peasant women and women in the unorganised sector of the economy. Women's studies and gender studies have also furthered the cause of feminism by pointing out the biases and omissions in various academic disciplines, for example, in the fields of history and sociology. There is, then, a close relationship between the field of gender studies and feminism.



Fig. 1.4: Gender based Job Discrimination