

# VIII B

## 6. Human Rights

For

BA Part-III POLITICAL Sc.(Hons.)

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# Recapitulation...

- As we've discussed in detail the evolution of Human Right as a concept and also learnt the contributions made in the course of History and its impact on the course and trajectory of Human Right all over the world.
- We've also seen the synchronisation of the evolution of Human Right in India and how various traditions, events, culture and movements made towards the emergence of HR as a potential instruments in the hands of people.

# International Bill of Rights

- The ICCPR, together with the Universal Declaration of Human Rights and the International Covenant on Economic Social and Cultural Rights, are considered the International Bill of Human Rights.
- The **International Bill of Human Rights** was the name given to UN General Assembly Resolution 217 (III) and two international treaties established by the United Nations. It consists of the Universal Declaration of Human Right (adopted in 1948), the International Covenant on Civil and Political Rights (ICCPR, 1966) with its two Optional Protocols and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966).
- The two covenants entered into force in 1976, after a sufficient number of countries had ratified them.

# In nutshell

The “International Bill of Human Rights” is made up of:

- Universal Declaration of Human Rights(**UDHR**,1948)
- International Covenant on Civil and Political Rights(**ICCPR**,1966)
- International Covenant on Economic, Social and Cultural Rights (**ICESCR**,1966)
- ***Optional Protocol*** to the International Covenant on Civil and Political Rights
- ***Optional Protocol*** to the International Covenant on Economic, Social and Cultural Rights

# Humanitarian Laws

- In order to give benefit to the human kind, the world community condescended to create and give themselves many instruments, which are popularly known as “Humanitarian Laws”.
- International Humanitarian Law, also known as the law of war or armed conflict, is a body of law created to place restrictions on the conduct of hostilities (the use of certain weaponry and means of warfare), to protect people who are not or who are no longer participating in the conflict (e.g., civilians, prisoners of war, wounded and sick, and humanitarian workers), and to confine the use of violence to the achievement of the objectives of the conflict. The overarching goal of international humanitarian law is to “ensure the safety and dignity of people in times of war.”

# Humanitarian Laws vs Human Rights

- Both international humanitarian law and international human rights law share a common goal of protecting the rights and dignity of individuals, but that goal is pursued in different ways in the two separate but overlapping bodies of law.
- International humanitarian law operates in a specific emergency situation—armed conflict; human rights law applies more broadly and seeks generally to protect the rights of individuals regardless of the presence of conflict.
- In addition, no derogations are allowed from international humanitarian law rules; however, governments may suspend some human rights during a public emergency that threatens the country's security.

# Specific terms and their connotations

- **Refugee**-Man's inhumanity to man often assumes huge proportions, motivated by Political, religious, linguistic and other impulses, and their obnoxious outbreak makes for vast victim exodus. If law is to rescue life, refugee status must, of necessity, receive legal recognition and the refugee process comes under legal regulations.
- **Non –combatant** : a term in the law of war describing civilians who are not taking a direct part in hostilities, persons such as medical personnel and military chaplains who are member of the armed forces, but are protected because of their specific duties.

# Human Rights in India

## **National Human Right Commission (NHRC)**

- In 1993, India created its first human right, under the Protection of Human Right Act, 1993-the National Human Right Commission (NHRC).
- The National Commission is responsible for, seeing that everyone, whoever they are, wherever they are living in the country and whatever they are doing, are able to enjoy and exercise their human rights.
- Apart from pursuing complaints, human right commissions are also expected to actively contribute towards creating a culture where there is respect and understanding of human rights.



# NHRC:Composition and Function

- The Constitution of the NHRC is dealt under Chapter II of the PHRA, 1993.
- Section 3 of the Act discuss in detail the composition of the body .
- It will have a Chairperson and other four members to enable them in their day-to-day functioning. The Chairperson is always a former Chief Justice of India. Up to four other members can be appointed as members and must include at least two former judges and two others who have knowledge and experience of human right issues.
- Members or Commissioners are appointed by the President. A committee that includes leaders of both the ruling and opposition parties in Parliament recommends their appointment to the President.
- Appointment is for a period of five years or till the age of 70, whichever is earlier.
- In addition to regular commissioners, the chairperson of the National Commission on Minorities, National Commission on Women and National Commission for Scheduled Caste and Scheduled Tribes are deemed members of the NHRC, which means they can help the Commission in exercising all its functions except the conduct of enquiries.

# NHRC:Powers & Functions

- According to the Protection of Human Rights Act, 1993, the Commission has two kinds of powers.
- It has power relating to inquiries which is mandated under section **13(1)**. Under section **14**, the Commission has power to investigate. The enquiry by the Commission relate to
  - 1) Inquire into complaints concerning:
    - a. violation of human rights,
    - b. abetment to violate human rights, or
    - c. negligence in the prevention of a human right violation by a public servant.
  - 2) Involve themselves in court cases concerning human rights if the court agrees
  - 3) Visit any jail, hospital, juvenile home, welfare home, school etc. that is run by the government and make recommendations for improvement in living conditions
  - 4) Study laws and issues which come in the way of enjoyment of human rights
  - 5) Promote awareness of human rights through research, publications, workshops and seminars
  - 6) Support non-governmental organizations and institutions working in the field of human rights.

# National Commission on Protection of Child Rights (NCPCR)

- Being a signatory to Geneva Convention, India has taken due care in providing institutional protection to the child. The establishment of **National Commission on Protection of Child Rights (NCPCR)** is the significant step in that direction.
- It was set up in March 2007 under the Commissions for Protection of Child Rights (CPCR) Act, 2005.
- National Commission for Protection of Child Rights (NCPCR) is a statutory body under the administrative control of the Ministry of Women & Child Development, Government of India.
- The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child.
- The Child is defined as a person in the 0 to 18 years age group.

# Protection of Children from Sexual Offence Act (POCSO)

- Originally passed in the 2012, amended in the year 2019 to give exemplary punishment in the matters affecting the dignity of children in India. The Act seeks to protect children from offences such as sexual assaults, sexual harassment, and pornography.
- The Bill increases the minimum punishment from seven years to ten years. It further adds that if a person commits penetrative sexual assault on a child below the age of 16 years, he will be punishable with imprisonment between 20 years to life, with a fine.