

**Recommendations of
National Human Rights Commission**

**Module on
Human Rights Education for
Teaching Professionals
Imparting Education
in
Primary, Secondary,
Higher Secondary Levels**



NATIONAL HUMAN RIGHTS COMMISSION



**Recommendations of
National Human Rights Commission**

**Module on
Human Rights Education
for Teaching Professionals
Imparting Education
in**

**Primary, Secondary,
Higher Secondary Levels**

NATIONAL HUMAN RIGHTS COMMISSION



NATIONAL HUMAN RIGHTS COMMISSION

Faridkot House, Copernicus Marg

New Delhi 110 001, India

Tel: 23385368 Fax: 23384863

E-mail: covdnhrc@nic.in

Website: www.nhrc.nic.in

© 2007, National Human Rights Commission

ISBN : 978-81-904411-2-4

First Edition : July 2007

Designed and printed by Rajika Press Services Pvt. Ltd

Foreword

Human Rights Education is an indispensable part of the right to education and has of late gained larger recognition as a human right itself. The knowledge of the rights and freedoms, of oneself as much as of the others, is considered as a fundamental tool to guarantee the respect of all rights for each and every person. The key stone of human rights education is that the education should not only aim at producing trained professional workers but also inculcating in them a sense of higher purpose. Human rights education aims at providing people and students with the abilities to accomplish and produce societal changes. Education is widely acknowledged and seen as a way to empower people to improve their quality of life and increase their capacity to participate in the decision making process, leading to desired transformation in the social, cultural and economic policies.

In fact, to achieve sustainable development, it is essentially important that education ought to be viewed from multifocal lense and that encompasses every single dimension of human development. The human development index reveals the prosperity of a nation in terms not only of per capita income, in other words of economic growth, but also in the most vital areas like education, social, political and other development related areas. The genesis of development of a nation is gauged on the scale of education which leads to economic, social and other developments. Thus, higher the Educational development of a country more it leads to prosperity, more the prosperity better are people of the nation, and the betterment of the people needs to ranking of the nation in the world map.

To achieve such multifaceted goals for education, it is essentially important to imbibe the values of human rights among children, particularly at the formative years. In other words, the human rights values needs to be set in the young minds so as to create a society full of people who have an understanding to respect the rights of fellow beings,

and it would lead to a sustainable development where equality, opportunity, and mutual respect would be the order of the day. For addressing all these issues, there is a need to create an appropriate mechanism to address various issues of human rights education and concerns. In this regard, the national curriculum for school education of NCERT has already included the human rights education component in the social science subjects. The social science subjects being taught at various levels of school education are already disseminating human rights education to the children and is creating positive conditions for a better understanding of human rights in the young minds. But, unfortunately, little effort has been made to create human rights education sensitivity and skills amongst those who are imparting education at the secondary and higher secondary school levels. Thus, one of the foremost important mechanisms to address the issue of human rights at school level needs to have a module for teacher training programme, which would be able to provide an appropriate level of input to the teachers who are involved and concerned with the human rights education at the school level. In this regard, the syllabus developed for framing the human rights module on issues of concern would equip the teachers to deal in a better way with the human rights education. Thus, in turn, the teachers would be able to address the issue of human rights and imparting the same to the young children in the school much more systematically and effectively. Perhaps, in the same context, it would also address the issue of providing the sensitivity training or sensitizing the young children towards the issue of human rights in more practical manner. In addition, this model may also help create a unique blend of practical as well as theoretical knowledge of the issue of concern and would go a long way in creating a society full of tolerance, mutual respect, dignity and, on top of this, sensitivity towards all by all.

In this endeavour, the service rendered by all concerned are highly appreciated. It is a great pleasure to thank Justice Shri Y. Bhaskar Rao, Member NHRC, Shri R.K. Bhargava, Secretary General, NHRC and Smt. Aruna Sharma, Joint Secretary for their committed and effective supervision during the course of the development of syllabus leading to teachers training module on human rights concern. I would also like to thank

the members of the Task Force for deliberating on the issue in a sustained manner and come out with their recommendations.

The National Human Rights Commission is of firm conviction and belief that the introduction of human rights syllabus leading to development of teachers training module on human rights concern would go a long way in setting the human rights culture not only in the school system but also in the young minds who are the future of the nation.



Justice S. Rajendra Babu
(Former Chief Justice of India)
CHAIRPERSON, NHRC



Preface

National Human Rights Commission has devised a multi-pronged strategy for raising all round human rights literacy and awareness by focusing at all levels of education – primary, secondary and higher education. While the Commission has constituted a task force which has elaborately undertaken the exercise of re-modeling course curriculum for different human rights education courses at university level, for the primary and secondary education level the NCERT has made a significant contribution by developing a national curriculum that has infused human rights elements in social science paper at school level. The present endeavour focuses mainly on human rights education at the level of imparters of education, i.e. the teaching professionals involved in various professional courses, such as B.Ed., L.T, etc.

It is axiomatic that the present generation of teaching professionals or those who are likely to join the teaching profession have hardly been exposed to human rights education philosophy or techniques. Therefore, the present human rights education course is mainly for teaching professionals intended to help create the required knowledge base and provide an opportunity to have right mental attitude in the teaching professionals. Since human rights education is essentially based on live social interaction, the proposed courses would have to be imparted with this dynamism in the course of actual teaching by way of an appropriate illustration focusing on human rights violations and their redressal. Such live illustrative teaching of the human rights subject would necessarily create interest and inculcate a learning spirit among teaching professionals.

In fact, it appears that perhaps the content of human rights in the existing subjects of social science have not been appropriately taught in its perspective owing to the fact that most of those who are involved in teaching human rights may not have gone through the formal training of the human rights in the absence of an appropriate module in the teachers training. Certainly, such shortcomings are bound to cast its shadow on the teaching methods. To address this issue, the Commission undertook an exercise of envisaging a syllabus leading to the development of modules on human rights concerns

which may be used for training of in-service teachers on human rights concern as well as the induction of human rights modules in the B.Ed, M.Ed. L.T. and other professional degrees in education. This would help in creating a transformation and equip the teaching professionals with requisite expertise and techniques, which would in turn have an effect on the very way of teaching human rights subject at the school level. This would also facilitate inculcating the culture of human rights at the very formative years of the young students. Thus, the efforts would certainly bring about a conspicuous change towards a sustainable development of the society. Considering the diversity of the country in terms of region, culture and language as such, while addressing the issue of human rights concern, particularly at the school level, we need to keep in mind, besides these diversities, the socio economic background of the region which does affect the very mindset towards this integral component of education which needs to be addressed and taught with much more sensitivity and indulgence. Primarily, it is not something that cannot be addressed with and without an appropriate mechanism module but, yes, of course, the module does provide an appropriate direction to address the issue itself. As such the training of the trainers of human rights education needs to be addressed more vigorously and aggressively, so as to create an environment which may itself take care of the issue in course of time. We have to take human rights education at the school level more seriously than ever before, if we have to conceive of a society with no discrimination on any ground.

In order to achieve the objective to sensitize people towards human rights and also to create human rights culture, the development of training module appears to be the need of the hour and, as such, the Commission made an attempt to formulate a syllabus on the issue leading to the development of teachers training modules on human rights education. In this regard the Commission constituted a Task Force consisting of eminent academicians, experts in school education, legal experts to look at the human rights education scenario at a school level across the country and, in the light of the same, to think of developing an appropriate mechanism to create human resources in the area of concern, so as to make human rights education at school level not only book oriented, and, in terms of structured input of human rights to the children, but also to provide them a blend of theoretical and practical knowledge. The Commission as a result of

this exercise has come up with a syllabus of human rights leading to the formulation of teachers training module, taking into account the national and international developments.

It is hoped that the teachers training module on human rights education recommended by the Commission would not only go a long way to create human rights culture in the society but it would also help in meeting the mandate of the Commission under section 12(h) of the Protection of Human Rights Act, 1993 to promote human rights literacy and awareness.



Justice Y. Bhaskar Rao

(Member)

National Human Rights Commission

Introduction

Creation of a strong and pro-active human rights community has been long overdue in India. Human rights can be most effectively imbibed through a well thought out programme of education. In fact, education becomes purposive and relevant only when ingrained with human rights education. The task of human rights education can be focused at two distinct levels, namely (a) at the level of the imparters of primary, secondary and higher secondary education and (b) at the level of receivers of education. Notwithstanding the special importance of those who receive education, the present curriculum development exercise has focused on the imparters of the education front. The exercise of developing a human rights curriculum for primary, secondary and higher secondary is being undertaken by the NCERT separately, and it is hoped that very soon their efforts would begin impacting our country's education system at lower levels. In addition, the CBSE has also evolved a syllabus for human rights education at lower education level, which will come into force w.e.f. 2008.

There has to be a clear roadmap on how to make education perform this important role of transformation in the attitudes and psyche of the persons engaged in teaching and education, else attaining these objectives will remain elusive. The planning to orient teachers of upper primary to secondary stages on human rights and evolving with them modalities of human rights teaching is based on certain basic premises that require total understanding of conditions of violation and sustenance of human rights. With this aspiration in mind, the National Human Rights Commission has facilitated a process of developing syllabus and curriculum guidelines of human rights education for the teachers of schools up to secondary level.

The primary aim is to help organizing teachers' training across the country through a focused module that would enable grooming teachers at B.Ed courses to be informed about the key human rights concepts with reference to realities in India and abroad. As a cascading effect of this exercise, the child citizens of India will develop human rights mindset in school environment. On the one hand, this will help them perceive the

violations of human rights in society at large as their own, and, on the other, will share their deprivations with those to whom human rights mean the most. Negotiating claims should not comprise the concerns of responsibility as a duty-bound citizen.

The syllabus presented here upholds this positioning very strongly. It is the result of a series of regional and national deliberations and discourse that have taken place through months and participated both by ideologues and practitioners of human rights.

The coverage of syllabus is designed keeping in mind that while teachers will know why there are human rights, they will be informed about the genesis and basic tenets of human rights. The teachers will learn how to infuse human rights components in the subject of study and then taking it down to the classroom to inspire students to acquire knowledge and capacity from rights-based perspectives. The curriculum would try to create appropriate human rights education modules for teaching professionals dealing with students at different levels i.e., primary, secondary and higher secondary.



R.K. Bhargava
(Secretary General)
NHRC



From the Editor's Desk

The Commission has been deeply concerned with the issue of human rights education ever since its inception in the year 1993. As a result of the efforts of the Commission, the human rights education has been introduced in the university and college system for the last five years. However, the human rights education at school level has been a continuum of the same scale of concern. As such, the Commission made an effort to ascertain as to how the human rights education is being imparted at the school level and what is its impact, as on date, in terms of inculcation of Human Rights values amongst the school going children who are the future of the Nation.

In this regard, in the recent past, an attempt was made to collect the information concerning the status of human rights education in schools from across various states in the country. The data/information received from various states were analyzed and it indicates that the human rights education in most of the states from class VI to class XII, where mainly the national curriculum is followed, constitute a part of the social studies. At the same time, it also observed that the way the human rights education is included in the curriculum at the school, secondary and higher secondary level, is on the lines of providing a set of structured information to the children rather than giving them an opportunity to get sensitized towards the issue of human rights per say. Unless otherwise the children, who are going to be the future of the nation, are made to realize the human rights issues in particular, from the point of view of an understanding of mutual respect towards rights of others, brotherhood, peaceful co-existence, besides providing them an understanding of the dynamics of psychological, social and economic development, the purpose behind the human rights education can not be fulfilled. To meet this end the element of human rights education in the existing national curriculum may not serve the said purpose, because of the impracticability exhibited in the existing national curriculum, primarily from the point of view of the fact that the element of human rights involved therein is just to know it theoretically and simply to write an answer to the question on the human rights issues in the examination. Thus, there is a gulf between human rights education and its implication in day-to-day life. In order to bridge this

gulf, there is a need to devise a mechanism so as not only to change the mind set of the children but also to imbibe human rights values and traditions and help children to develop positive attitude towards the human rights per say. To nurture the value and culture of human rights in the child during the formative years, there is a serious need not only to think along these lines but also to work on the modalities by which it could be achieved. Keeping this in mind, the Commission constituted a Task Force to look at the prevailing human rights education scenario at school level right across the country, based on the information collected by the Commission, and to suggest as to how the human rights education could be made more effective at the school level, there is a need to create human resources. Further, the Task Force deliberated on the national scenario on human rights education at the school level and suggested if to make human rights education effective at school level. The Task Force consists of Dr. V. Vasanti Devi, Former Vice Chancellor, Prof. M.C. Sharma, IGNOU, New Delhi, Dr. Sanjay Dubey, NCERT, Dr. P.K. Mishra, NCERT, Regional Centre, Orissa Dr. Pratibha Sharma, Joint Director, SCERT, Dr. Sadhana Parashar, CBSE, Ms. Annie Koshi, Principal, St. Mary's School, New Delhi. The effectiveness of human rights education at school level can only be achieved in a sustainable manner provided we, at the first place, create trained manpower in order not only to disseminate human rights education but also to teach human rights education at this level of education which is regarded as formative year of children in terms of more effective technique and with an appropriate level of field experience, etc. Thus, it is essentially important that we should have an appropriate model of human rights leading to address each issue of concern and, such model need to be imbibed in teachers training programme, besides its inclusion in other professional degree programme leading to B.Ed. M.Ed. LT and others.

Thus, it is essentially important to evolve a syllabus which may be used in developing modules on various dimensions of human rights and be used for teachers training for in-service teachers in particular, and for professional future teachers undertaking B.Ed courses, M.Ed courses and other courses concerning the school, secondary and higher secondary education. The module which has envisaged and emerged has been carefully drafted in view not only of the existing human rights education but also taking full count of the recent advancement in the knowledge of human rights.

I take this opportunity to express my heartfelt thanks to Justice Shri S. Rajendra Babu, for being a constant source of inspiration and guidance during the formulation of the syllabus leading to the development of teacher training module and the recommendations of the Commission. In this endeavour, I would like to thank Justice Y. Bhaskar Rao, Hon'ble Member, NHRC for the initiation and valuable guidance throughout the course of the formulation of the recommendations, leading to the development of teachers training module. Special mention is also due to Shri R.K. Bhargava, Secretary General, NHRC for valuable suggestions and encouragement. I thankfully acknowledge the contribution, commitments and dedication of the members of the Task Force and also thank them for sparing invaluable time to accomplish the task of development of syllabus leading to the development of teachers training module within a stipulated period. Behind any successful team, there is an army of quiet and dedicated individuals whose efforts must be acknowledged. First and foremost, I would like to place a record of thanks to Dr. K.C. Pathak, Shri Nishith, Shri Mohammed Ahmed and other silent members of team of NHRC.

Finally, a sample module on topic entitled "Human Rights and Indian Constitution, International and National Normative Frame-Work relating to Human Rights best practices" are placed as an annexure.



Aruna Sharma

(Joint Secretary)

National Human Rights Commission

Contents

1. Composition of Module Development Committee	19
2. Composition of Module Review Committee	21
3. Teachers Training Module	23
4. A Sample Module on Topic entitled “Human Rights & Indian Constitution”	33
5. General Bibliography	59
Annexure - International and National Normative Framework Relating to Human Right Best Practices.	61

Composition of Module Development Committee

Dr. V. Vasanti Devi

Chairperson

Institute of Human Rights Education

People Watch Tamil Nadu

No. 6, Vallabai Road, Chokkikulam

Madurai-525 002

Dr. Sanjay Dubey

Reader Political Science

Deptt. of Education in Social Science
and Humanities

National Council of Education

Research and Training (NCERT)

Sri Aurobindo Marg

New Delhi – 110 016.

Dr. I.S. Suri

Secretary

State Council of Educational Research
and Training (SCERT)

Varun Marg, Defence Colony

New Delhi-110 024.

Dr. Pratibha Sharma

Joint Director

State Council of Educational Research and Training (SCERT)

Varun Marg, Defence Colony

New Delhi-110 024.

Dr. Sadhana Parashar

Education Officer
Central Board of Secondary Education (CBSE)
Shiksha Kendra, 2nd, Community Centre
Preet Vihar
New Delhi-110 092

Prof. M.C. Sharma

Director (School Education)
Indira Gandhi National Open University
Maidan Garhi
New Delhi-110 068

Ms. Annie Koshi

Principal
St. Mary's School
Safardarjung Enclave
New Delhi-110 029.

Dr. Onkar Singh Dewal

E-250, Mayur Vihar-II
Delhi-110 091

Dr. P.K. Mishra

Reader (Retd. March 2007)
Plot 252/A
Sahid Nagar
Bhubaneswar

Composition of Module Review Committee

Prof. Riaz Punjabi

School of Social Systems
Jawaharlal Nehru University
New Delhi.

Dr. S. Mehartaj Begum

Deptt. of Political Science
Jamia Millia Islamia
Jamia Nagar
New Delhi-110 025.

Dr. Khwaja A. Muntaquim

Human Rights Counsel
Former Addl. Legislative Counsel
H-3, Dharma Apartments
2, I.P. Extension
New Delhi-110 002.

Dr. Somen Chakravorty

Care India
27, Hauz Khas Village
New Delhi-110 016.

Teacher Training Module

I Draft Syllabus of Human Rights Education for the Teachers

1. Concept of Human Rights

Human rights – Meaning and Concept (Theories)

Generational Classification of human rights

2. International Development of Human Rights

United Nations (System) and Universal Declaration of Human Rights (UDHR), 1948:

UN Council on Human Rights,

United Nations Development Programme Reports: Human, Social, Economic Development

3. Human Rights in the Indian Constitution

Rights in Indian Constitution-their background, overview and contemporary debates

Relationship between Fundamental Rights and the International Covenant on Civil and Political Rights (ICCPR), Directive Principles of State Policy and International Covenant on Economic, Social and Cultural Rights (ICESCR)

Fundamental Duties as Constitutional Obligations

4. Human Rights Violations of Marginalized/Disadvantaged Groups

Children, Women, Scheduled Castes and Scheduled Tribes, Backward Classes, Minorities, Refugees, Aging Persons, Physically and Mentally Challenged. Prisoners, Unorganized Workers and others

5. Globalization: Impact on Human Rights

Impact on Employment, Livelihoods, Working Conditions and Worker Rights

Emergence of market forces and Challenges to Human Rights

State and Corporate Sector Relationship

Impact on society and culture – Inequality and growth without Justice

Agrarian and Industrial Distress and Urban Poor

Special Economic Zones

6. Emerging Issues in Human Rights

Challenges to Democratic State and Civil Society – Communalism and Terrorism, Corruption and Muscle Power

Good Governance and State Accountability

Debates on Big Dams, Displacement and Rehabilitation

Tribal Rights and Forest Protection

Environmental Issues and Sustainable Development, Traditions, Culture and Human Rights

7. Human Rights Protection Mechanism in India

Law Enforcement Agencies

Judicial System, Adjudication Process and Judicial Activism

Remedies: Writs, Public Interest Litigation (PIL), Judicial Review, Right to Information Act (RTI)

Protection of Human Rights Act 1993

Institutional Mechanisms

National/State Commissions for Human Rights, Women, Scheduled Castes, Scheduled Tribes, Backward Classes, Minorities, Minority Educational Institutions and others

Role of Civil Society Organizations and Media

8. Promotion of Human Rights Education

Right to Education and Universalisation of Education

National Policy of Education and Human Rights

Constructing Child Centered Education

Human Rights Education – India and International

Human Rights Education: Problems and Prospects

9. Human Rights Education cannot be effectively transacted within the four walls of the class room, but must be learnt in the world outside and be linked to ground reality. The following are suggested for internalising the meaning and message of Human Rights Education.

- (1) Exposure programmes of various forms
- (2) Short placement with programmes / projects addressing human rights issues conducted by civil society organizations and human rights defenders
- (3) Case Study based report as a required project by each student

Guidelines for preparation of syllabus content

1. Concept of Human Rights is to be developed in western and non-western perspective.
2. For Historical Development of Rights in the West: the documents that were milestones like Magna Carta (1215) , English Bill of Rights (1689), the Bill of Rights of the Constitution of the United States of America, the French Declaration of the Rights of Man and of Citizen (1789), Charters of League of Nations and United Nations.
3. Perspectives on the rights of each Marginalized/Disadvantaged Group should be developed in terms of their respective violations of human rights, constitutional provisions, international conventions, movements, landmark judgments.
4. For the United Nations System: International Convention on the Elimination of all forms of Racial Discrimination, 1965, Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, Convention on the Rights of the Child, 1989, Convention on the Elimination of all forms of Discrimination against Women, 1979, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992, UN Millennium Declaration, 2000, UN Global Agenda for Dialogue among Civilizations, 2001.
5. For Development of Human Rights in India in specific reference of Fundamental Rights and Economic Programme for the Swaraj Government adopted by the Indian National Congress at its 45th Session held at Karachi in March, 1931, Objectives Resolution, 1947 has to be brought out.

6. For Human Rights in Indian Constitution: Protection of Civil Rights Act, 1955, SC and the ST (Prevention of Atrocities) Act, 1989, Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Environment (Protection) Act, 1986, Prevention of Domestic Violence Act 2006.
7. Constant reference to web-site of National Human Rights Commission (www.nhrc.nic.in)

General Bibliography

1. Darren J. O'Byrne, *Human Rights An Introduction*, Pearson Education, Singapore (2005)
2. Tim Dunne and Nicholas J., *Human Right in Global Politics*, Cambridge Univ. Press
3. Tim Dunne and Nicholas J., *Human Rights in Global Politics*, Cambridge Univ. Press
4. Carlos Santiago, *Ethics of Human Rights*, OUP (1991)
5. National Council for Teacher Education, *Human Rights and National Values: Self-Learning Module*, Vols. I-III, New Delhi (1996)
6. UNESCO, *Human Rights Teaching: Int. Congress on Education of Human Rights and Democracy* (Montreal: UNESCO, 1993)
7. UNESCO, *Philosophical Formulations of Human Rights* (Paris, UNESCO, 1986)
8. UNESCO, *Violations of Human Rights: Possible Rights of Recourse and Forms of Resistance* (Paris, UNESCO, 1984)
9. Mani V.S., *Human Rights in India: An Overview*, Institute for the World Congress on Human Rights, New Delhi, (1998)
10. Mathur, K.M. *Crime, Human Rights and National Security*, Gyan Pub. New Delhi (1999)

11. Mehta, P.L. and Neena Verma, *Human Rights under the Indian Constitution*, Deep and Deep, New Delhi (1995)
12. Nirmal, C.J., *Human Rights in India*, OUP, New Delhi (1999)
13. Pal, R.M.(ed.) *Human Rights Education*, PUDR, New Delhi (1995)
14. Pachauri, S.K., *Children and Human Rights*, APH Pub., Delhi (1995)
15. Pachauri, S.K., *Women and Human Rights* APH Pub., Delhi (1999)
16. Iyer, V.R. Krishana, *Human Rights and Inhuman Wrongs*, D.K. Pub., Delhi (1996)
17. Baxi, Upendra, *Inhuman Wrongs and Human Rights*, Har Anand Pub., New Delhi (1994)
18. Hugo Stokke and Arne Tostensen (eds.), *Human Rights in Development Year Book 1999/2000: The Millennium Edition*, Nordic Human Rights Publications, Oslo
19. Kothari, Miloon, et al, *The Human Rights to Adequate Housing and Land*, NHRC, New Delhi (2006)
20. Bhakry, Savita, *Children in India and their Rights*, NHRC, New Delhi (2006)
21. Macwan, Martin, *Dalit Rights*, NHRC, New Delhi (2006)
22. Mohit, Anuradha, et al. *Rights of the Disabled*, NHRC, New Delhi (2006)
23. Nayak, Nalini, et al., *The Coasts, the Fish Resources and the Fishworker's Movement*, NHRC, New Delhi (2006)

24. Kothari, Ashish, et. Al. *Environment and Human Rights*, New Delhi (2006)
25. Sinha, Shalini, *Rights of Home Based Workers*, NHRC, New Delhi (2006)
26. Sarojini, N.B., et.al., *Woman's Right, Health*, NHRC, New Delhi (2006)
27. Kinnu, Gunjan, *An Analysis of International Legal Regime on Human Trafficking*, NHRC, New Delhi (2006)
28. Maneli, Mieczyslaw, *Juridical Positivism and Human Rights*, Hippocrene Books, New York.
29. Tomasovski, Katarina, *Women and Human Rights*, Zed Books, London.
30. Symonides, Janusz, (ed.), *Human Rights: New Dimensions and Challenges*, Darmouth, Ashgate.
31. Basiouni, M. Cheriff, (ed.), *The Protection of Human Rights in the Administration of Criminal Justice: A Compendium of United Nations Norms and Standards*, Centre for Human Rights, United Nations, Geneva, Transnational Publishers, Inc. Irvington-on-Hudson, New York.
32. Cancado Trindade, A.A.A., *Environment and Development: Formulation and Implementation of the Right to Development as a Human Right*.
33. Ward, E (ed.), *Indigenous People between Human Rights and Environmental Protection*, Danish Centre for Human Rights, Copenhagen.
34. Weeramantry, CG, *The Slumbering Sentinels: Law and Human Rights in the Wake of Technology*, Harmondsworth, Penguin.
35. Weeramantry, CG, *Impact of Science on Human Rights: Global Case Studies*, United Nations University Press, Tokyo.

36. Agrawal, J.C., *Education for Values, Environment and Human Rights*, Shipra Publications, Delhi
37. Subbian, A, *Human Rights: The Unending Quest*, Human Rights and Peace Centre, Chidambaram
38. Robertson, A.H. and Merrils, J.G., *Human Rights in the World: An Introduction to the study of the International Protection of Human Rights*, Manchester University Press, Manchester.
39. Shastri, Satish (ed.): *Human Rights, Development and Environmental Law*.
40. Indian Institute of Human Rights 4C.1. *Child and Human Rights*.

A sample Model on the Topic “Human Rights and Indian Constitution”

Human Rights, intrinsic to all humans as members of humanity, are the modern and secular version of the natural rights. All humans, being born equal are equally entitled to the Human Rights without any distinction of birth, sex, race, status, religion, language or nationality. Standing above the ideologies of the capitalism or communism, Human Rights reflect the concern for democracy, development and peace.

The national awakening and social reform movements were for the equality, democracy and social progress. During the freedom movement, the people of India fought against colonial rule for their rights and liberties. Freedom fighter Lokmanya Bal Gangadhar Tilak proclaimed, “*Swaraj is my birthright and I shall have it.*” Throughout the freedom struggle, the demand for fundamental rights was always in the forefront.

The Indian National Congress at its Madras session in December 1927, resolved to draft a “Swaraj Constitution for India, on the basis of the Declaration of Rights” and in 1928, an All Parties Conference of representatives from Indian political parties proposed constitutional reforms for India. Demanding dominion status and elections under universal suffrage, they called for guarantees of rights deemed fundamental, representation for religious and ethnic minorities and limitations on government powers.

In pursuance, the Motilal Nehru Committee, in its report in August 1928, set out 19 Fundamental Rights and reiterated that “Our first case should be to have our Fundamental Rights guaranteed in a manner which will not permit their withdrawal under any circumstance.” In 1931, the Indian National Congress, at its Karachi session, adopted resolutions defining, as well as committing itself to the defence of fundamental civil rights, including socio-economic rights such as minimum wage, the abolition of untouchability and serfdom. Committing themselves to socialism in 1936, the leaders of the Congress party took examples from the Soviet constitution, that recognize the fundamental duties of citizens as a means of collective, patriotic responsibility.

The Cabinet Mission Plan conceded the demand for the Constituent Assembly as well as the need for a written guarantee of Fundamental Rights in the Constitution of India. The Objective Resolution moved by Jawaharlal Nehru was adopted by the Constituent Assembly on January 22, 1947. It was solemnly pledged to draw up a constitution for India's future governance and it "shall be guaranteed and secured to all the people of India, justice – social, economic and political, equality of status, of opportunity and before the law, freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality". Two days after adopting the Objective Resolution, the Constituent Assembly elected an Advisory Committee consisting of 54 members with Sardar Vallabhbhai Patel as its Chairman. The Advisory Committee in turn with the help of its five Sub Committees recommended for the division of rights into justiceable and non-justiceable, that is, the rights enforceable by appropriate legal process and the rights not enforceable through courts nevertheless to be fundamental in the governance of the nation.

1948 Declaration



Adoption of the *Universal Declaration of Human Rights* by the United Nations on December 10, 1948 gave a global thrust to the Human Rights. Rane Cassin, the distinguished French Jurist who drafted United Nations Declaration of Human Rights (UDHR) was awarded the Nobel Peace Prize in 1968 for his works on Human Rights. The United Nations Declaration of Human Rights, the two Covenants – the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and the Optional Protocols taken together are known as the *International Bill of Rights*. All of them have been ratified by India.

The Economic and Social Council



Human Rights Council



Human Rights and Children



**The UN Literary Decade – Education for All
(2003-2012)**



Human Rights and Indigenous Peoples



Also as a founder member of the United Nations Organizations, India is a party to the Universal Declaration of Human Rights, 1948. Coming close on the heels of the Universal Declaration of Human Rights, the Bill of Rights was enunciated in the Constitution of India, 1950 by the founding fathers, with the contemporary development, humanitarian temper and constitutional practices. Among the constitutional provisions, the chapter on Fundamental Rights has a vital significance, especially in view of the problems of minorities in India. The preambular assurance of the dignity of the individuals more eloquently proclaimed by the extensive ideas of economic and social justice, which in fact, happens to be the cardinal principles underlying the Universal Declaration of Human Rights is sought to be implemented through the various provisions of Part III-Fundamental Rights and Part IV-Directive Principles of State Policy of the Constitution of India.

By the time the Constituent Assembly adopted these recommendations and drafted the Constitution of India, 1950, the Universal Declaration of Human Rights, 1948, had already been adopted with the hope that ultimately all member States will adopt these rights in their constitutions. Besides being influenced by the UDHR, the development process of constitutional rights in India was also inspired by historical documents such as England's Bill of Rights, the United States Bill of Rights and France's Declaration of the Rights of Man. The Fundamental Rights and Directive Principles were included in the final draft of the constitution promulgated on 26 November 1949, while the Fundamental Duties were later added to the constitution. The ten Fundamental Duties—given in Article 51-A of the constitution—can be classified as duties towards self, duties concerning the environment, duties towards the State and duties towards the nation. The 11th Fundamental Duty, which states that every citizen "*who is a parent or guardian, to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years*" was added in 2002 by amending the constitution. The citizens are morally obligated by the constitution to perform these duties that are non-justiceable. These obligations extend not only to the citizens, but also to the State. There is also reference to such duties in international instruments such as the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights.

Consequently, the Constitution of India, 1950 set out a most elaborate declaration of Human Rights. These rights were broadly divided into two compartments (i) political and civil rights, and (ii) social and economic rights, that were contained in Chapter III enumerating the Fundamental Rights and Chapter IV dealing with the Directive Principles of State Policy respectively. The former are justiceable while the latter are non-justiceable. Insertion of a new chapter IVA on Fundamental Duties, having corresponding relations with the Fundamental Rights through the 42nd Constitution Amendment Act, 1976, was an addition to the non-justiciable slot.

There are some more constitutional rights scattered under articles or are inferred from the constitutional limitations on the government powers. For instance, Article 265 lays down that “No tax shall be levied or collected except by authority of law”, which implies that, a person has a right not to be taxed except under a law. Similarly, Article 300A guarantees that a person has a right not to be deprived of his property or except under a law and Article 326 bestows upon the citizens the right to vote.

Directive Principles of State Policy aim to establish social and economic democracy through a welfare state, which shall strive to promote the welfare of the people and such social conditions under which the citizens can lead a good life. The principles have been inspired by the Directive Principles of the Ireland Constitution and by the principles of Gandhism; and relate to social justice, economic welfare, foreign policy, and legal and administrative matters. The idea of “Directive Principles of State Policy” can be traced to the Declaration of the Rights of Man proclaimed by Revolutionary France, the Declaration of Independence by the American Colonies and the United Nations Universal Declaration of Human Rights. Like fundamental rights, the DPSPs has the tendency to evolve its growth. For instance, *provision for free and compulsory education for children and protection and improvement of environment and safeguarding of forests and wild life were added at later stage.*

The Article 21-A states that the state shall provide free and compulsory education to all children of the age of six to fourteen years.

One major problem has been that unlike Civil and Political Rights, Economic, Social and Cultural Rights are widely viewed as aspirational moral goals, which are not legally binding. There is no flaw in human rights practice to declare rights with the aim of establishing standards even if they are not immediately achieved.

The obligation for enforcing the human rights contained in various international instruments vests primarily with national governments. Under Article 2 of the International Covenant on Economic, Social and Cultural Rights, States are legally bound to take steps to 'achieve progressively' to the maximum of their available resources, the full realisation of the rights contained in the Covenant.

The problem is that most non-socialist States have mirrored within their own Constitutions and laws, this assumed dichotomy between Civil and Political rights, which are legal and justiciable, enforceable by courts, and Economic, Social and Cultural Rights, which are moral rights, not enforceable by courts. In India, most Civil and Political rights are contained in the Fundamental Rights of the Constitution, whereas the majority of Economic, Social and Cultural Rights are contained in a separate chapter, called the Directive Principles of State Policy. Citizens can petition courts for the enforcement of the former, but not the latter. Even Economic, Social and Cultural Rights not contained in the Indian Constitution, but subsequently legislated like the Equal Opportunities have no penal clauses, therefore, effectively they remain pious statements of intent, but in practice afford a disabled person, whose rights are flouted, no real remedy.

However, in India as in many other countries, some Economic, Social and Cultural Rights are contained both in the law and the Constitution, enforceable through legal remedies. These include legislation for minimum wages, the rights of workers, the cultural and educational rights of minorities, and restraints on bonded and child labour.

A broad distinction is often made between rights that are 'justiciable', capable of being invoked in Courts of law and enforced by judges, and those that are not. It is argued that many Economic, Social and Cultural Rights, such as the rights to food, housing,

health, education and social security, are by their very character, not justiciable rights. They are no doubt legally binding, in that, they create obligations on states. However, they are not legal with regard to their applicability.

It is frequently argued also that Courts cannot intervene to enforce these rights because States are legally bound to discharge these obligations progressively based on the availability of resources. It is suggested that Civil and Political Rights require mainly abstentions by State authorities, involving no costs, whereas Economic, Social and Cultural Rights require positive action by the State, involving significant expenditure.

This distinction is overdrawn. Several Civil and Political Rights also do require expenditures, such as for legal aid, regulators and ombudsmen. On the other hand, there are Economic, Social and Cultural Rights that only require the State to abstain from encroachment on people's rights, such as from the compulsory acquisition of the land of indigenous communities or the eviction of urban squatters. Several laws against discrimination against women, children, socially disadvantaged groups and minorities, involving primarily Economic, Social and Cultural Rights, would also not involve more significant public expenditure as compared to Civil and Political Rights.

However, in the end, it must still be admitted that some of the most vital Economic, Social and Cultural Rights do involve substantial public expenditure, such as the rights to food, housing, education, social security, work and health care.

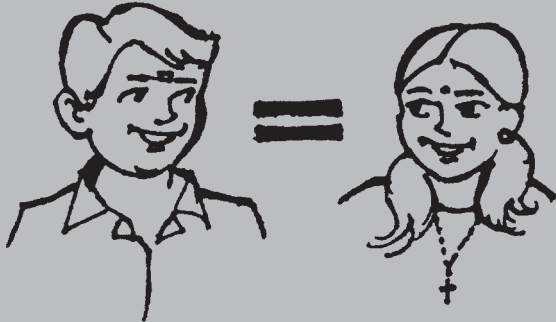
It is not that most national governments have no absolute resources for public expenditure. What is contested is the priorities for this public expenditure. The analysis of budgets of most countries would reveal overwhelmingly large allocation to military expenditure, the salaries and other expenses of public officials, the police and urban infrastructure. Allocation to advance the Economic, Social and Cultural Rights is typically low, and even this is inefficiently managed and typically involves major expenditures on salaries of generalist administrators. Therefore, the "progressive" achievement of these rights is even more tardy.

These trends are further aggravated by the ascendancy of neo-liberal policies of structural adjustment, promoted by the IMF and World Bank, which have resulted in a continuous dilution of the welfare obligations of the State, and a retreat of the State itself from its erstwhile paramount obligations to secure Economic, Social and Cultural Rights and development for all its citizens, to facilitating globalised market-led economic growth.

In these circumstances, the imperative has never been greater, for human rights activists to press for the inclusion of Economic, Social and Cultural Rights in national constitutions and laws, as legal rights that are fully justiciable, on par with Civil and Political Rights. Since these rights seek to safeguard the rights to survival with dignity, development and well-being of large masses of powerless-disenfranchised, oppressed women, men, girls and boys in countries across the world, justiciable social, economic and cultural rights will help strengthen their voices and struggles for a more just and humane social order.

A comparison between the United Nations Declaration of Human Rights, 1948 with the Fundamental Rights and a comparison between International Covenant on Economic, Social, and Cultural Rights with the Directive Principles of State Policy respectively are presented hereto in tabular form:

A Comparative Study of Fundamental Rights and Universal Declaration of Human Rights

Fundamental Rights in Indian Constitution	Universal Declaration of Human Rights
<p>Art. 14 :</p> <p>The state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.</p>	<p>Art. 7 :</p> <p>All are equal before the Law and are entitled without any discrimination in violation of this declaration and against any incitement to such discrimination</p>
<p>Equality and Protection of Law</p>	
<p>All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination</p>	
	
<p>Art.15 (1) :</p> <p>The State shall not discriminate against any citizen on the grounds only of religion, race, caste, sex, place of birth, or any of them.</p>	<p>Art. 2- Para (I) :</p> <p>Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political, or other opinion, national or social origin, property, birth or other status.</p>

	<p>Article 7- Sentence 2 :</p> <p>(Equality Before Law)-All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.</p>
<p>Art.16 (1) :</p> <p>There shall be equality of opportunity for all citizens in the matters relating to employment or appointment to any office under the State.</p>	<p>Art. 21 (2) :</p> <p>Everyone has a right to equal access to public service in his country.</p>

Right to Work

Everyone has the right to work. To free choice of employment. To just and favourable conditions of work and to protection against unemployment



<p>Art. 19 (1) :</p> <p>All citizens have the</p> <p>(a) Right to Freedom of Speech and expression.</p>	<p>Art. 19 :</p> <p>Everyone has the right to freedom of opinion and expression</p>
--	--

<p>(b) Right to assemble peacefully and without arms.</p> <p>(c) Right to form unions and associations.</p> <p>(d) Right to move freely throughout the territory of India.</p> <p>(e) Right to reside and settle in any part of the territory of India</p>	<p>Art. 20 (1):</p> <p>Everyone has the right to freedom of peaceful assembly and association.</p> <p>Art. 23 (4) :</p> <p>Everyone has the right to form and to join trade unions for the protection of his rights.</p> <p>Art. 13 (1):</p> <p>Everyone has the right to freedom of movement and residence within the borders of each state.</p>
--	--

Right to Expression


Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek receive and impart information and ideas through any media regardless of frontiers **(Art 19)**



<p>Art.20 (1) :</p> <p>No person shall be convicted of any offence except for a violation of law in force at the time of commission of the</p>	<p>Art. 11 (2) :</p> <p>No one shall be held guilty of any penal offence on account of any act or commission which did not constitute a penal</p>
---	--

<p>act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.</p>	<p>offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.</p>
<p>Art.21 :</p> <p>No person shall be deprived of his life or personal liberty except according to procedure established by law.</p>	<p>Art. 3 :</p> <p>Everyone has the right to life, liberty and security of person.</p> <p>Art. 9 :</p> <p>No one shall be subjected to arbitrary arrest, detention or exile.</p>

Right to life

<p>Everyone has the right to life, liberty and security of person (Art. 03)</p>	
--	--

<p>Art. 23 (1) :</p> <p>Traffic in human being and 'begar' and other similar forms of forced labor are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.</p>	<p>Art. 4 :</p> <p>No one shall be held in slavery or servitude and the slave trade shall be prohibited in all forms.</p>
---	--

Art.25(1) :

Subject to public order, morality and health and to the provisions of this part, all persons are equally entitled to freedom of conscience and right freely to profess, practice and propagate religion.

Art.18 :

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Right to Religion

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with other and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. **(Art 18)**



A Comparative Study of Directive Principles of State Policy with the International Covenant on Economic, Social and Cultural Rights

Directive Principles of State Policy in Indian Constitution	International Covenant on Economic, Social and Cultural Rights
<p>Art. 38 :</p> <p>State to secure a social order for the promotion of welfare of the people.</p>	<p>Art. 4 :</p> <p>The state parties shall recognize that the nature of rights should be solely for promoting the general welfare in a democratic society.</p>
<p>Art. 39 :</p> <p>The State shall direct its policy towards securing:</p> <p>(a) That the citizen, men and women equally, have the right to an adequate means of livelihood.</p> <p>(b) That the ownership and control of material resources of the community are so distributed as best to subserve the common good.</p> <p>(c) That the operation of economic system does not result in the concentration of wealth and means</p>	<p>Art. 11 :</p> <p>The state parties shall recognize the right of everyone to an adequate standard of living including adequate food, clothing and housing and to the continuous improvement of living conditions for himself and his family, and to recognize fundamental right of everyone to be free from hunger by a developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources.</p> <p>Art. 25:</p> <p>Nothing shall be interpreted as impairing the inherent right of all peoples to enjoy</p>

<p>of production to the common detriment.</p>	<p>and utilize fully and freely their natural wealth and resources.</p>
<p>Art. 39 :</p> <p>(d) That there is equal pay for equal work for both men and women.</p>	<p>Art. 7:</p> <p>The States to recognize the right of equal pay for equal work for both man and woman;</p> <p>Art. 3 :</p> <p>The State shall ensure the equal rights of men and women to the enjoyment of all economic, social and cultural rights.</p>
<p>Art. 39 :</p> <p>(e) That the health and strength of workers, men and women and tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength.</p> <p>(f) That children are given opportunities and facilities to develop in a healthy manner and in condition of freedom and dignity and that, childhood and youth are protected against exploitation and against moral and material abandonment.</p>	<p>Art. 10 :</p> <p>The State shall ensure special measures for protection and assistance for children and young persons from economic and social exploitation and from their employment harmful to their morals or health, dangerous to life, etc.</p>

<p>Art. 41 :</p> <p>The State shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness, disablement.</p> <p>Art. 42 :</p> <p>The State shall make provision for securing just and humane conditions of work and for maternity relief.</p>	<p>Art. 12 :</p> <p>The States shall recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Realization of this right includes</p> <ul style="list-style-type: none"> (a) improvement of all aspects of environmental and industrial hygiene (b) prevention, treatment and control of epidemic, endemic, occupational and other diseases. (c) creation of conditions which would assure to all medical service and medical attention in the event of sickness.
<p>Art. 43 :</p> <p>The State shall endeavour to secure conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.</p> <p>Art.47 :</p> <p>The State shall raise the level of nutrition</p>	<p>Art. 7:</p> <p>The States to recognize the right of everyone to a just, safe and healthy working conditions which ensure fair wages, equal remuneration for work without distinction of any kind, and rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays</p>

<p>and the standard of living and improve public health.</p>	<p>Art 2.</p> <p>The States to guarantee that the rights of the Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.</p> <p>Article 13</p> <p>(a) The States shall recognize that primary and secondary education is compulsory and available free to all;</p>
<p>Art. 45 :</p> <p>The State shall endeavour to provide for early childhood care and education for all children below six years.</p>	<p>Art. 14 :</p> <p>The State parties shall draw a plan that within a reasonable number of year's compulsory primary education free of charge for all is facilitated</p>

These comparisons bear testimony to the fact that there are many similarities in contents and form between the constitutional provisions and the provisions of Universal Declaration of Human Rights and International Covenant on Economic, Social and Cultural Rights. The Fundamental Rights substantially cover almost all the civil and political rights enumerated in Article 2 to 21 of the Universal Declaration of Human Rights, and hence can truly be designated as Fundamental Human Rights of India.

The impact of the Universal Declaration of Human Rights on the drafting and development of the Constitution of India is seen and felt throughout. Though the framers of the Constitution would have been influenced by the British legal heritage and

American constitutional traditions, the impact of the United Nations Declaration of Human Rights had also been there due to its contemporaneous character. “What American and other highly developed democratic countries have achieved through judicial decisions and pragmatism, it has been crystallized, embodied and improved upon by the Indian Constitution,” said K. Subba Rao.

The role of the Supreme Court of India is indeed commendable in protecting, enforcing and expanding the scope of human rights through its various judicial pronouncements. The Supreme Court of India in the judgment of *Keshvananda Bharti v. State of Kerala* case has further put an umbrella protection to the human rights elements that the Parliament, in exercise of the power to amend the Constitution, cannot destroy or alter its basic structure. The evocative Preamble is the summary passport to the Indian Constitution and it has its own dignity of identity and integrity that can not be made to lose in the process of amendment. The Fundamental Rights are the very heart of our Constitution. Taking them away, would deprive the Constitution not only of its identity but of its life itself. Parliament, when it claims the right to amend the constitutional law, cannot set itself up as the official liquidator of the Constitution.

While adjudicating the cases of various nature including PILs and in the course of Judicial Review, the Supreme Court has found Article 21 as most fruitful. According to the Supreme Court, the right to life and liberty includes right to human dignity, especially to women, right to privacy, right to know, right to education, right to protection of health, medical care and environment.

The Government of India has acceded to the Universal Declaration of Human Rights as well as to the International Covenant of Economic, Social and Cultural Rights and also to the International Covenant on Civil and Political Rights and deposited its document of accession in the United Nations, by a declaration dated April 10, 1979 with certain reservations:

1. The right of self-determination shall apply only to the people under foreign domination and not to section of the people of a sovereign independent State, which is the essence of national integrity.

2. The right to compensation for persons claiming to be victims of unlawful arrest or detention against the State shall not be enforceable under Indian legal system.
3. The Government of India reserves the right to apply its own law relating to foreigners.

Heeding to some criticisms by some international agencies, the Government of India enacted the Protection of Human Rights Act, 1993 to provide for the setting up of National Human Rights Commission, Human Rights Commission in states and the Human Rights Courts for the better promotion and protection of human rights. Under the Act, so far the National Human Rights Commission (NHRC) at New Delhi and State Human Rights Commissions (SHRCs) in 17 states have been set up. Like judiciary, these commissions, independent of the government, inquire into the matters of abetment of human rights violations and negligence and submit their findings and recommendations to the government. The NHRC along with the SHRCs has, time to time, come out with wide measures and various suggestions for the protection of Human Rights and has immensely contributed in the field of Human Rights awareness and education in India.

Creation of various other statutory bodies for the protection of the rights of women, children, minorities, scheduled castes, scheduled tribes and backward classes have further strengthened the cause of humanitarian principles and social justice. Moreover, Indian cultural ethos based on *Sarva Dharma Sambhav* and *Ahimsa* provides a moral safeguard to the protection of human Rights.

Besides poverty, illiteracy, inequality, hunger and disease, the problems of religious fundamentalism, ethnic conflicts and more particularly macabre emergence of terrorism give rise to the problems in the way of Human Rights protection in the developing nations like India. Often strong actions against the terrorists, make the Human Rights of ordinary people to suffer, whereas, neither the terrorists nor the state has the right to trample upon Human Rights.

Often, while dealing and defining the Human Rights, we are caught in paradoxical situations like majority versus minority rights; individual liberty versus social control; rights of other nationals versus indigenous people; obscenity versus decency; democracy versus national security; socialism versus capitalism, etc. In these situations, application of Human Rights is bound to become a situational and relational concept. Moreover, there are differences in the understanding and practices of Human Rights due to the differences in historical background, social systems, cultural traditions and economic development of the countries. Today, the challenge before us is that how to strike a balance between natural and national principles of Human Rights. Nani Palkivala, the renowned lawyer has rightly suggested that the responsibilities should always go with the rights, else freedom would depreciate its own value. The rights without the responsibilities make life too easy for the criminals and too difficult for the law-abiding citizens. But Nani Palkiwala has also cautioned simultaneously that “Liberty has a hypnotizing sound, while unfortunately responsibilities have no sex appeal.”

With the total agreement to the call of Prof. Amartya Sen, the Nobel laureate, that there is a need for ensuring primary education for everyone in India, the Right to Education, though lately, has been included as fundamental right in the Constitution of India.

It is known to all that education is the process as well as means of human development. No development can be complete without education, which alone ensures that the citizens enjoy their rights and are not deprived of the same.

Human beings were primarily and essentially concerned with obtaining guarantees for them against the rulers. Even today this is predominantly the constitutional position in most of the countries. Likewise, the Fundamental Rights in Indian Constitution are made enforceable only against the state, whereas both the individual and the government can impair them. Rights of men are not only against the government but also against the people collectively with the entire obligation with family membership. We must guard against the devaluation of Human Rights by proliferation. It is good to increase the currency, but not at the cost of depreciating it. Paul Singhart pointed out “The test of

rights is not whether, the prosperous, with access to the law courts, are well protected, or whether the weak are helped by the strong. The ultimate measure of whether a society can properly be called civilized is how it treats those who are near the bottom of its human heaps". After all, Human rights issues are essentially concerns of human dignity and nothing else.

References

1. "The Committee set out 19 Fundamental Rights, Later. in 1945, a Non Party committee under the Chairmanship of Sir Tej Bhadur Sapru reiterated the demand for the fundamental right.
2. The Constitution 42nd Amendment Act in 1976
3. The Constitution 86th amendment in 2002.
4. Article 48-A, was added by the Constitution 42nd Amendment Act, 1976
5. Article 45, was added by the Constitution 86th Amendment Act, 2002
6. The Constitution 25th Amendment Act, 1971
7. The Constitution of India-Part III Article 31C Directive Principles of State Policy
8. AIR 1973 SC 1461
9. Tahir Mahmood, Chairman, Minority Commission in his interview to Yogendra Yadava published in the Hindustan Times dated January 1999 has said that Hindus are minority in six states viz., J&K, Punjab, Arunachal Pradesh, Nagaland, Mizoram, Meghalaya and Lakshwadeep
10. The Constitution 86th amendment in 2002
11. Palkhiwala, op. cit, pp. 24-25

Bibliography

1. K. Subba Rao. Enforcement of the Basic Human Rights in Law and the Commonwealth. p. 73
2. Palkivala Nani A., We the Nation-The Lost Decades. U.B.S. publishers. New Delhi. 1994. Pp 26-27
3. Diwan Paras and Peeyushi, Human rights And The Law, New Delhi, 1996. For detailed study see chapters V & VI

International and National Normative Framework Relating to Human Rights Best Practices

The United Nations Human Right Norms

1. The Universal Declaration of Human Rights 1948 (select)

Article 3

Everyone has the right to life, liberty and security of person.

Article 5

No one shall be subjected to torture, or to cruel, inhuman, or degrading treatment or punishment.

Article 7

All are equal before the law and are entitled without any discrimination to the equal protection of the law.

Article 8

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

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of the criminal charge against him.

Article 11

- I. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
- II. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interferences with his privacy, family, home or correspondence.

Article 14

- I. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- II. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or – acts contrary to the purposes and principles of the United Nations.

2. International Covenant on Civil and Political Rights (select)

(Adopted and opened for signature and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. Entry into force 23 March 1976)

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

In time of public emergency, which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogations.

Article 6

Every human being has the inherent right to life. This right shall be protected by law.

No one shall be arbitrarily deprived of his life. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provision of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can be carried out pursuant to a final judgment rendered by a competent court. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this Article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provision of the convention on the prevention of the punishment crime of genocide.

Any one sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases. Sentence of the death shall not be imposed for crimes committed by person below 18 years of age and shall not be carried out on pregnant woman. Nothing in this Article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular no one shall be subjected without his free consent to medical or scientific experimentation.

Article 9

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. Anyone who is arrested shall be informed, at the time of arrest, of his arrest and shall be promptly informed of any charges against him. Anyone arrested or detained on a charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial

power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judiciary proceedings, and, should occasion arise, for execution of the judgment. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release, if the detention is not lawful. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. (a) Accused person shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all part or part of a trial for reasons of morals, public order (order public) 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 interest of justice; but any judgment 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 concerns matrimonial disputes or the guardianship of children.
2. Everyone charged with a criminal charge shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparations of his defense and to communicate with counsel of his choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of his right; and to have legal assistance assigned to him,

in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

- (e) To examine, or have examined, the witness against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - (g) Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to

the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Every one shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks

3. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984 (select)

(Adopted and opened for signature, ratification and accession by General assembly resolution 39/46 of 10 December 1984, Entry into force 26 June 1987)

Part-I

Article 1

1. For the purposes of this convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third

person, or for any reason on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 3

1. No State party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant consideration including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each state party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each state party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 11

Each State party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of person subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State party shall ensure that its competent authorities proceed to a prompt and impartial investigation, whenever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State party shall ensure that any individual who alleges that he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all illtreatment or intimidation as consequences of his complaint or any evidence given.

Article 14

1. Each party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Convention on the Rights of the Child, 1989. (select)

(Ratified by the Government of India in December, 1992)

Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults, unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. State Parties recognize the right of every child alleged as, accused of, or

recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
 - (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;
 - (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - (i) To be presumed innocent until proven guilty according to law;
 - (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
 - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
 - (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

- (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
 - (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
 - (vii) To have his or her privacy fully respected at all stages of the proceedings.
3. State Parties shall seek to promote the establishment of laws procedures authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:
- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.
 - (b) Whenever appropriate and desirable, measure for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguard are fully respected.
4. A variety of dispositions, such as care, guidance and supervisions orders; counseling; probation; foster care; education and vocational training programmes and other alternatives took institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall a fact any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of State Party;
- (b) International law in force for the State.

5. United Nations Code of Conduct for Law Enforcement Officials

(Adopted by General resolution 34/169 of 17 December, 1979)

Article 1

Law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Article 3

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Article 4

Matters of a confidential nature in the possession of law enforcement officials shall be kept confidential, unless the performance of duty or the needs of justice strictly require otherwise.

Article 5

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement officials invoke superior orders or exceptional circumstances such as a state of war or

a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Article 6

Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

Article 7

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such as acts.

Article 8

Law enforcement officials shall respect the law and the present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violations of them. Law enforcement officials who have reasons to believe that a violation of the present Code has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.

Part - II

The National Human Rights Norms

1. The Constitution of India, 1950 (Select)

Article 14

The State shall not deny to any person equality before the law or the equal protection of the laws within the Territory of India.

Article 19

1. All citizens shall have the right:
 - (a) to freedom of speech and expression;
 - (b) to assemble peacefully and without arms;
 - (c) to form associations or unions;
 - (d) to move freely throughout the Territory of India;
 - (e) to reside and settle in any part of the territory of India(India)
 - (f)
 - (g) to practice any profession, or to carry on any occupation, trade or business
- (2) Nothing in sub-clause(1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interest of sovereignty and integrity of India, the Security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.
- (3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interest of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.
- (4)

(5)

(6)

Article 20

- (1) No person shall be convicted of any offence except for violation of law in force at the time of commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.
- (2) No person shall be prosecuted and punished for the same offence more than once.
- (3) No person accused of any offence shall be compelled to be a witness against himself.

Article 21

No person shall be deprived of his life or personal liberty except according to procedure establishment by law.

Article 22

- (1) No person arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.
- (2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(3) Nothing in clauses (1) and (2) shall apply–

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention.

(4)

(5)

(6)

(7)

Article 39A

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic other disabilities.

Article 32: Right to Constitutional Remedies

1. The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this part is guaranteed.
2. The Supreme Court shall have power to issue directions or orders or Writs including Writs in the nature of habeas corpus; mandamus; probation; quo warranto, and; certiorari; whichever may be appropriate for the enforcement of any of the rights conferred by this part.

3. Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2)
4. The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

2. The Protection of Human Rights Act, 1993 (Select)

Sec. (2)

- d. "Human Rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by Courts in India"

Sec. 12 Functions of the Commission

The Commission shall perform all or any of the following functions namely:

- (a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf, into complaint of:
 - (1) violation of human rights or abetment thereof; or
 - (2) negligence in the prevention of such violation, by a public servant;
- (b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- (c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or

lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;

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

Sec 13. Powers relating to inquires

- (1) The Commission shall, while inquiring unto complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in respect of the following matters, namely:
 - (a) summoning and enforcing the attendance of witnesses and examining them on oath;

- (b) discovery and production of any document;
 - (c) receiving evidence on affidavits;
 - (d) requisitioning any public record or copy thereof from any court or office;
 - (e) issuing commissions for the examination of witnesses or document;
 - (f) any other matter which may be prescribed.
- (2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquire and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.
- (3) The Commission or any other officer, not below the rank of Gazetted Officer, specially authorized in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.
- (4) The Commission shall be deemed to be a civil court and when any offence as it described in section 175, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973 forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, (1973).

- (5) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and, for the purposes of section 196, of the Indian Penal Code, and the Commission shall be deemed to be a civil court for all the purposes of section 195 and chapter XXVI of the Code of Criminal Procedure, (1973).

Sec. 14 Investigation

- (1) The Commission may, for the purposes of conducting any investigation pertaining to the inquire, utilize the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or any State Government as the case may be.
- (2) For the purpose of investigating into any matter pertaining to the inquire, any officer or agency whose services are utilized under sub-section (1) may, subject to the direction and control of the Commission:
 - (a) summon and enforce the attendance of any person and examine him;
 - (b) require the discovery and production of any document; and
 - (c) requisition any public record or copy thereof from any office.
- (3) The provisions of section 15 shall apply in relation to any statement made buy a person before any officer or agency whose services are utilized under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.
- (4) The officer or agency whose services are utilized under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

- (5) The Commission shall satisfy itself about the correctness the fact stated and the conclusion, in any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

Sec- 15. Statement made by persons to the Commission

No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him, in any civil or criminal proceedings except a prosecution for giving false evidence by such statement:

Provided that the Statement:

- (a) Is made in reply to the question which he is required by the Commission to answer; or
- (b) Is relevant to the subject matter of the inquiry.

Sec- 16. Persons likely to be prejudicially affected to be heard

If at any stage of the inquiry, the Commission:

- (a) Consider it necessary to inquiry into the conduct of any person; or
- (b) Is of the opinion that the reputation of any persons is likely to be prejudicially affected by the inquiry, it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

3. Code of Conduct for the Police in India

(Issued by the Ministry of Home Affairs and communicated to the Chief Secretaries of all the States/Union Territories and Heads of Central Police Organization on July 4, 1985.)

1. The police must bear faithful allegiance to the Constitution of India and respect and uphold the rights of the citizens as guaranteed by it.
2. The police should not question the propriety or necessity any law duly enacted they should enforce the law firmly and impartially with doubt fear or favour, malice and vindictiveness.
3. The police should recognize and respect the limitation of their powers and functions. They should not usurp or even seem to usurp the functions of the judiciary and sit in judgment on cases to avenge individuals and punish guilty.
4. In securing the observance of law or in maintaining order, the police should as far as practicable, use the methods of persuasion, advice and warning. When the application of force becomes inevitable, only the irreducible minimum force in required in the circumstances should be used.
5. The prime duty of the police is to prevent crime and disorder and the police must recognize that the test of their efficiency is the absence of both and not the visible evidence of police action in dealing with them.
6. The police must recognize that they are members or the public, with the only difference that in the interest of the society and on its behalf they are employed to give full time attention to duties which are normally incumbent or every citizen to perform.

7. The police should realize that the efficient performance of their duties will be dependent on the extent of ready cooperation that they receive from the public. This, in turn, will depend on their ability to secure public approval of their conduct and action and to earn and retain public respect and confidence.
8. The police should always keep the welfare of the people in mind and be sympathetic and considerate towards them. They should always be ready to offer individual service and friendship and render necessary assistance to all without regard to their wealth and/or social standing.
9. The police should always place duty before self should maintain calm in the face of danger, scorn or ridicule and should be ready to sacrifice their lives in protecting those of others.
10. The police should always be courteous and well mannered; they should be dependable and impartial; they should possess dignity and courage; and should cultivate character and the trust of the people.
11. Integrity of the highest order is the fundamental basis of the prestige of the police. Recognizing this the police must keep their private lives scrupulously clean, develop self-restraint and be truthful and honest in thought and deed, in both personal and official life, so that the public may regard them as exemplary citizens.
12. The police should recognize that they are full utility to the State is best ensure only by maintaining a high standard of discipline, faithful performance of duties in accordance with law and implicit obedience to the lawful directions of commanding ranks and absolute loyalty to the force and by keeping themselves in the state of constant training and preparedness.

13. As member of secular, democratic state, the police should strive continually to rise above personal prejudices and promote harmony and the spirit of common brotherhood amongst all the people of India, transcending religious, linguistic or sectional diversities and to renounce practices derogatory to the dignity of women and disadvantage sections of society.



NATIONAL HUMAN RIGHTS COMMISSION

Faridkot House, Copernicus Marg, New Delhi 110 001, India

Tel: 23385368 Fax: 23384863

E-mail: covdnhrc@nic.in Website: www.nhrc.nic.in

ISBN 81-904411-2-4

