

<b>Human Rights Ready Reckoner for Sem V (Nov 2022)</b>		
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### 1) Define Human Rights

Ans:

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

Many of the basic ideas that injected life into the human rights movement developed in the aftermath of the Second World War and the events of the Holocaust, culminating in the adoption of the Universal Declaration of Human Rights in Paris by the United Nations General Assembly in 1948. This declaration is founded on three key principles as under:

- (1) Human Rights are inalienable
- (2) Human Rights are indivisible
- (3) Human Rights are inter-dependent

### 2) State and Explain what are Human Rights

Ans:

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

While there is consensus that human rights encompasses a wide variety of rights such as the right to a fair trial, protection against enslavement, prohibition of genocide, free speech or a right to education, there is disagreement about which of these particular rights should be included within the general framework of human rights; some thinkers suggest that human rights should be a minimum requirement to avoid the worst-case abuses, while others see it as a higher standard.

### 3) What do you mean by Human Rights

Ans: See answer to Q 1 above on the same page

4) What are the kinds of Human Rights

Ans:

The commonly accepted notion is that all human rights can be divided into two categories

–

- (1) Civil and political rights and
- (2) Social, economic and cultural rights

Civil rights are those related to the protection of life and personal liberty enabling a person to live a dignified life. Such rights include the right to life, liberty & security, right to privacy, freedom of movement and freedom of thought, conscience and religion. Political rights are those that allow a person to participate in political activities of the state and include the right to vote, the right to be elected, the right to participate in the conduct of public affairs. Civil and political rights are often referred to as negative rights since they entail the state's abstention from doing anything which violates these rights.

Economic, social and cultural rights guarantee the minimum necessities of life and are based on social equality and include the right to food, clothing, housing, the right to work, the right to education etc. These are more in the nature of positive rights since they require the state's active intervention.

Many of the rights in either category are enshrined as Fundamental rights in the Indian Constitution.

5) Name any three economic, social and cultural rights

Ans:

Economic, social and cultural rights are socio-economic human rights, which include:

- (1) Right to food and shelter
- (2) Right to education
- (3) Right to work
- (4) Right to health
- (5) Right to social security
- (6) Right to water and sanitation.

6) Explain Evolution of International Human Rights Law and Role of UN in that process

Ans:

Prior to the nineteenth century, human rights were restricted primarily to challenging absolutist authority as seen from Magna Carta to the 1776 American Declaration of Independence and the 1789 French Declaration of the Rights of Man and Citizen. The chronological evolution of human rights thereafter, was an echo to the cry of the French revolution: Liberty, Equality and Fraternity and focused on the liberation from authoritarian oppression. In an industrializing world and consequent inequalities, the importance of socio-economic rights started to become important. Abolition of slavery in the nineteenth century was a giant leap towards human rights. After the First World War, tentative attempts were made to establish a human rights system under the League of Nations. However, these came to an abrupt end with the Second World War. It took the trauma of that war, and the holocaust to cement international consensus in the form of the United Nations.

The core system of human rights promotion and protection under the United Nations has a dual basis: the UN Charter, adopted in 1945, and a network of treaties subsequently adopted by UN members. This system evolved under the UN Economic and Social Council, which set up the Commission on Human Rights, as mandated by article 68 of the UN Charter. The main accomplishment of the Commission was the elaboration and near-universal acceptance of the three major international human rights instruments: the Universal Declaration of Human Rights, adopted in 1948, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), the latter two adopted in 1966. The normative basis of the UN Charter system is the Universal Declaration of Human Rights, adopted on 10 December 1948, which has given authoritative content to the vague reference to human rights in the UN Charter. Although, it did not have a binding force, it has come to be recognized as a universal yardstick of State conduct. Faced with allegations of human rights violations, the Commission adopted the "1235" and "1503" procedures, in 1959 and 1970, respectively to deal only with situations of gross human rights violations.

Since the Commission seemed selective in the application of country-specific mandates, in 2006, the General Assembly replaced it by a smaller, permanent and human rights-compliant Council. As a subsidiary organ of the General Assembly, the Council enjoys an elevated status compared to the Commission, which was a functional body of the Economic and Social Council. The Council retained most of the special procedures and introduced the Universal Peer Review (UPR). Starting in April 2008, one third of UN Member States has undergone this process. Apart from the Universal Declaration on Human Rights, the General Assembly adopted numerous other declarations. The two relevant declarations -- the Declaration on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities, adopted in 1992, and the Declaration on the Rights of Indigenous Peoples, adopted in 2007, have not been translated into binding

instruments. The same is true of the Declaration on the Right to Development, which was adopted in 1986.

The Charter-based system which was not binding on member-states gave way to the treaty-based system which developed more rapidly. The first treaty, adopted in 1948, was the Convention on the Prevention and Punishment of the Crime of Genocide, which addressed the most immediate past experience of the Nazi Holocaust. Thereafter adopted was the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in 1965 followed by the International Covenant on Civil & Political Rights and the International Covenant on Economic, Social & Cultural Rights in 1966. The international human rights regime then started shifting its attention to particularly marginalized and oppressed groups or themes: the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted in 1979; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); the Convention on the Rights of the Child (1989); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990); and the Convention on the Rights of Persons with Disabilities (2006). The latest treaty is the International Convention for the Protection of All Persons from Enforced Disappearances (ICED), also adopted in 2006 but is yet to come into force.

#### 7) Define the term environment

Ans:

Environment, as defined in the Environmental Protection Act, 1986, includes water, air and land and the inter-relationship which exists among and between water, air & land and human beings, other living creatures, plants, micro-organisms and property.

In the context of human rights, there are two views related to environment. The first is that the right to a healthy environment is itself a human right and the second that human rights related to the environment can be derived from other human rights like the right to life, right to health, etc. The second view found support at the 1972 Stockholm Conference and in the 1992 Rio Declaration, which recognised the critical role that the exercise of human rights plays in environmental matters. It was also reflected in the pronouncements of the Indian judiciary which has included it as part of the Right to life under Article 21 of the Indian Constitution. Protection of the environment has also been included as a directive principle (Article 48A) and as a Fundamental Duty under clause (g) of Article 51A of the Indian Constitution.

8) Name any two legislations relating to protection of environment in India

Ans:

Legislations relating to protection of environment in India includes:

- (1) The Environment Protection Act, 1986.
- (2) The Water (Prevention and Control of Pollution) Act, 1974.
- (3) The Air (Prevention and Control of Pollution) Act, 1981.
- (4) The Noise Pollution (Regulation and Control) Rules, 2000.
- (5) The Indian Forest Act, 1927.
- (6) The Wild Life (Protection) Act, 1972.
- (7) The Forest (Conservation) Act, 1980
- (8) The Ozone-Depleting Substances (Regulation and Control) Rules, 2000.
- (9) The Coastal Regulation Zone Notification 2018.
- (10) The Energy Conservation act, 2001.
- (11) The Biological Diversity act 2002.
- (12) The National Green Tribunal Act, 2010.

9) Write a short note on: Right to healthy environment

Ans:

The right to a healthy environment has developed gradually since the 1970s when it was first alluded to by the 1972 Stockholm Declaration. The right to a sustainable and healthy environment is a human right advocated by human rights organizations and environmental organizations to protect the ecological systems that provide human health. The right was acknowledged by the United Nations Human Rights Council during its 48th session in October 2021. The right is often the basis for human rights defence by environmental defenders.

The right is interconnected with other health-focused human rights, such as the right to water and sanitation, right to food and right to health. The right to a healthy environment uses a human rights approach to protect environmental quality. This approach addresses the impact of environmental harm upon individual humans, as opposed to the more traditional approach of environmental regulation per se. Yet another approach to environmental protection is rights of nature which tries to extend the rights enjoyed by humans to nature as well.

10) Write a short note on: Human Right and the environment

All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Without a healthy environment, we are unable to fulfil our aspirations. We may not have access to even the minimum standards of human dignity.

The UN Human Rights and the Environment Mandate, created in March 2012 and extended in 2018, examines the human rights obligations as they relate to a safe, clean, healthy and sustainable environment. It also promotes best practices relating to the use of human rights in environmental policymaking. On October 8, 2021, the UN Human Rights Council adopted Resolution 48/13, recognising for the first time that having a clean, healthy and sustainable environment is a human right and calling on UN Member States to cooperate to implement this right. On the same day, the Council adopted Resolution 48/14, establishing a Special Rapporteur on the promotion and protection of human rights in the context of climate change.

11) Explain the principle of Substantial Development and the Polluter pays Principle with help of relevant International Declaration and Case Law

Ans:

Sustainable development is the overarching paradigm of the United Nations. The concept of sustainable development was described by the 1987 Brundtland Report as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

The 1972 UN Stockholm Conference on the Human Environment was the UN's first major conference on international environmental issues, and marks a turning point in the development of international environmental politics. The succeeding conferences i.e. the 1992, Rio Earth Summit, the 2002 Johannesburg Summit on Sustainable Development and the 2012 Rio+20 Conference all take their starting point in the declaration of the Stockholm Conference. The Sustainable Development Goals, set up in 2015 by the UN General Assembly, are a collection of 17 interlinked global goals designed to be a "blueprint to achieve a better and more sustainable future for all".

The ‘polluter pays’ principle is the commonly accepted practice that those who produce pollution should bear the costs of managing it to prevent damage to human health or the environment. The polluter pays principle is part of a set of broader principles to guide sustainable development worldwide.

In the context of the above, some environmental cases of relevance in India are as under:

- (1) **In Indian Council for Enviro-Legal Action vs. Union of India [1996 (3) SCC 212]**, the Court held that once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity.
- (2) **In Vellore Citizens' Welfare Forum vs. Union of India [1996 (5) SCC 647]**, the Court interpreted the meaning of the Polluter Pays Principle as the absolute liability for harm to the environment which extends not only to compensating victims but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of 'Sustainable Development' and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology."
- (3) **In the Oleum Gas Leak case [(M.C. Mehta vs. Union of India) AIR 1987 SC 1086]**, the Court laid down that an enterprise engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of persons working in the factory and to those residing in the surrounding areas, owes an absolute and non-delegable duty to the community to ensure that no harm results to any one on account of hazardous or inherently dangerous nature of the activity which it has undertaken. The enterprise is absolutely liable to compensate for such harm and irrespective of all reasonable care taken on his account.
- (4) **M. C. Mehta vs Kamal Nath & Ors [(1997) 1 SCC 388]**, the Court held that pollution is a civil wrong and is a tort committed against the community as a whole. Thus, any person guilty of causing pollution has to pay damages (compensation) for restoration of the environment and ecology. Under the Polluter Pays Principle, it is not the role of Government to meet the costs involved in either prevention of such damage, or in carrying out remedial action, because the effect of this would be to shift the financial burden of the pollution incident to the taxpayer.

12) What is the meaning of right to development

Ans:

The right to development, first recognized in 1981 in the African Charter on Human and Peoples' Rights is the right that "All people shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind." The right to development was subsequently proclaimed by the United Nations in 1986 in the "Declaration on the Right to Development" which stated that "development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom". The right to development is a group right of people, as opposed to an

individual right, and was reaffirmed by the 1993 Vienna Declaration and Programme of Action. The right includes:

- (1) Full sovereignty over natural resources
- (2) Self-determination
- (3) Popular participation in development
- (4) Equality of opportunity
- (5) Creation of favourable conditions for the enjoyment of other civil, political, economic, social and cultural rights.

13) Write a short note on: Right to Information

Ans:

The right to information denotes the right to request and obtain information and data of public importance which is in the possession of the government and its agencies. It provides an avenue to citizens to question and hold the government accountable for its functions.

In 1976, in the Raj Narain vs the State of Uttar Pradesh case, the Supreme Court ruled that Right to Information will be treated as a fundamental right under article 19 and went on to state that in Indian democracy, people are the masters and they have the right to know about the working of the government.

Thus, the government enacted the Right to Information Act, 2005 which provides machinery for exercising this fundamental right.

14) Name any four personal freedoms by Article 19 of the Constitution of India

Ans:

The personal freedoms guaranteed by Article 19 of the Constitution of India are:

- (a) Right to freedom of speech and expression;
- (b) Right to assemble peaceably and without arms;
- (c) Right to form associations or unions;
- (d) Right to move freely throughout the territory of India;
- (e) Right to reside and settle in any part of the territory of India; and
- (f) to practise any profession, or to carry on any occupation, trade or business

15) Name any two rights which are not available to aliens in India

Ans:

The rights which are available only to citizens of India and not to aliens are:

- (1) Right against discrimination on the grounds of religion, race, caste, sex or place of birth (Article 15);
- (2) Right to equality of opportunity in matter of public employment (Article 16);
- (3) Rights under Article 19 –
  - (a) Right to freedom of speech and expression;
  - (b) Right to assemble peaceably and without arms;
  - (c) Right to form associations or unions;
  - (d) Right to move freely throughout the territory of India;
  - (e) Right to reside and settle in any part of the territory of India; and
  - (f) to practise any profession, or to carry on any occupation, trade or business.
- (4) Cultural and educational rights (Articles 29 and 30)

16) What do you understand by double jeopardy

Ans:

The doctrine of double jeopardy is a rule that states that no one should be put twice in peril for the same offence. In other words, no one should be tried for the same offence twice.

This is a fundamental right enshrined in Article 20 (2) of the Indian Constitution which says that no person shall be prosecuted and punished for the same offence more than once. It is pertinent to note that this fundamental right guaranteed under the Indian Constitution refers to only a person who has been punished but does not have any mention of a person who was prosecuted and acquitted. However, this gap is filled in by Section 300 (1) of CrPC which stipulates that a person who has been tried once for an offence whether convicted or acquitted, will not be liable to be tried again for the same offence. Nor can he be tried on the same facts for any other offence.

17) Write a short note on: Right to Education

Ans:

The Right to Education has been recognized as a human right in a number of international conventions, including the International Covenant on Economic, Social and Cultural Rights which recognizes a right to free, compulsory primary education for all, an obligation to develop secondary education accessible to all with the progressive introduction of free secondary education, as well as an obligation to develop equitable

access to higher education, ideally by the progressive introduction of free higher education. In 2021, 171 states were parties to the Covenant.

In India, the Constitution (Eighty-sixth Amendment) Act, 2002 inserted Article 21-A in the Constitution of India to provide free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right. The Right to Education Act, 2009, describes the modalities of the importance of free and compulsory education for children between 6 and 14 in India under Article 21A of the Constitution. The Act makes education a fundamental right of every child between the ages of 6 and 14 and specifies minimum norms in elementary schools.

18) What is the Right to Education guaranteed under Article 21A of the Constitution of India

Ans:

Article 21A of the Constitution of India, inserted by the 86<sup>th</sup> amendment in 2002, states that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

Article 21A provision makes only elementary education free and compulsory as a Fundamental Right and not higher or professional education. The government described this step as “The dawn of the second revolution in the chapter of citizens’ rights”. The Right to Education Act, 2009, describes the modalities of the importance of free and compulsory education for children between 6 and 14 in India.

19) Explain Article 16(1) of the Constitution of India

Ans:

Article 16 (1) of the Constitution of India states that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

The Article guarantees equality only in respect of jobs under the State i.e. the government. Who comes under the state is mentioned in Article 12. It is important to note that Article 16 (4) provides that “Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the state. In effect, Article 16 (1) is partly limited by the provision of Article 16 (4). Notwithstanding this provision, the Supreme Court of India has consistently referred to the notions of “efficiency” and “merit,” while adjudicating the validity of various reservation policies. The Court has held in several judgments — *Indra Sawhney v Union of India* 1993; *M Nagaraj v Union of India* 2006 – that the reservation

policies made under Article 16(4) of the Constitution would be limited by Article 335, which provides for “maintenance of efficiency of administration,”

20) Explain Article 23 of the Constitution of India

Ans:

Article 23 has two clauses. Clause (1) states that traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. Clause (2) states that nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Essentially, Article 23 is one of the provisions in the Constitution in which the right against Exploitation is enshrined. It is an important Fundamental Right that guarantees every citizen protection from any kind of forced labour. Clause 2 implies that compulsory services for public purposes (such as conscription to the armed forces) are not unconstitutional.

In **Sanjit Roy v. State of Rajasthan, (AIR 1983 SC 328)**, wherein people were employed under the Rajasthan Famine Relief Works Employees (Exemption from Labour Laws) Act, 1964, which permitted the payments of wages below the minimum wage, the Court held that the Act was Constitutionally invalid as to the exclusion of the Minimum Wages Act.

21) What is Article 32 of the Constitution of India

Ans:

Article 32 of the Constitution of India contains one of the fundamental rights listed in the Constitution that each citizen is entitled to. It deals with the ‘Right to Constitutional Remedies’, or affirms the right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred in Part III of the Constitution. It states that the Supreme Court “shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part”. The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution

The Article is included in Part III of the Constitution with other fundamental rights. Only if any of these fundamental rights is violated can a person can approach the Supreme Court directly under Article 32.

22) Explain Article 39 (d) of the Constitution of India

Ans:

Article 39 (d) of the Constitution of India, specifies that the State shall, in particular, direct its policy towards securing that there is equal pay for equal work for both men and women.

The Directive Principle of State Policy regarding equal pay for equal work is enshrined in Article 39 (d) of the Constitution. It forms part of the socio-economic justice principles underlying the Constitution.

The Delhi High Court relied on Article 39(d) while dealing with the case of Randhir Singh v. Union of India (1982), Jeet Singh v. MCD (1986) and Delhi Veterinary Assn. v. Union of India (1984). The Hon'ble Court invalidated the disparities of pay scales of drivers in the Delhi Police Force, the Delhi Administration and the Central Government. It was unequivocally ruled that the principle of equal pay for equal work is not an abstract doctrine and can be enforced by reading it into the doctrine of equality enshrined in Articles 14 and 16 of the Constitution of India.

23) Explain Article 42 of the Constitution of India

Ans:

Article 42 of the Constitution of India, provides that the State shall make provision for securing just and humane conditions of work and for maternity relief.

The objective of Article 42 of the Constitution is to significantly contribute to the formation of the rule of law that will be based on the principles of supremacy of the law, where protection of human rights will be guaranteed. Providing humane conditions for work and for maternity relief are, after all, basic human rights which should be available to human beings and women respectively.

24) Explain Article 47 of the Constitution of India

Ans:

Article 47 of the Constitution of India states that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

Improving public health is a very important facet of this article. Right to health is now considered as an integral part of the fundamental rights. In case of **Consumer Education and Resource Centre Vs Union of India (1995 AIR 922)**, the Supreme Court held that the right to health and medical care is a fundamental right under Article 21 of the constitution as it is essential for making the life of the workman meaningful and purposeful with dignity of person. “Right to life” in Article 21 includes protection of the health and strength of the worker.

25) Write a short note on: Directive Principles of State Policy and Human Rights

Ans:

The Directive Principles of State Policy of India are the guidelines or principles for governing the State of India and are provided in Part IV (Article 36-51) of the Constitution of India. Though not enforceable by any court, these principles are considered fundamental in the governance of the country, making it the duty of the State to apply these principles in making laws to establish a just society in the country.

Directive Principles are classified under the following categories: Economic and Socialistic, Political and Administrative, Justice and Legal, Environmental, Protection of Monuments, Peace and Security.

The principles have been inspired by the Directive Principles given in the Constitution of Ireland which are related to social justice, economic welfare, foreign policy, and legal and administrative matters. The idea of such policies can be traced to the Declaration of the Rights of Man and of the Citizen proclaimed by Revolutionary France and the Declaration of Independence by the American Colonies. The Indian constitution was also influenced by the United Nations Universal Declaration of Human Rights from which it drew its words.

26) Name directive principles related to the rights of workers

Ans:

The directive principles related to rights of workers are:

- (1) Article 39 (a) – The State shall direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood.
- (2) Article 39 (d) – The State shall direct its policy towards securing that there is equal pay for equal work for both men and women.
- (3) Article 41 – 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 cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

- (4) Article 42 – The State shall make provision for securing just and humane conditions of work and for maternity relief.
- (5) Article 43 – The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.
- (6) Article 43-A – The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.]

27) Write a short note on : Rights of workers under the Constitution of India

Ans:

The rights of workers under the Constitution are provided for both in the Fundamental Rights (Part III) and Directive Principles (Part IV) of the Constitution. Some of the rights under Part III are available to workers as a generic right available all citizens. The following are the rights:

- (1) Article 14 commands the State to treat any person equally before the law.
- (2) Article (19) (1) (c) grants citizens the right to form association or unions.
- (3) Article 21 promises protection of life and personal liberty.
- (4) Article 23 prohibits forced labour.
- (5) Article 24 prohibits employment of children below the age of fourteen years.
- (6) Article 39(a) provides that the State shall secure to its citizens equal right to an adequate means of livelihood.
- (7) Article 39 (d) provides that the State shall direct its policy towards securing equal pay for equal work for both men and women.
- (8) Article 41 provides that within the limits of its economic capacity the State shall secure for the Right to work and education.
- (9) Article 42 instructs State to make provisions for securing just and humane conditions of work and for maternity relief.
- (10) Article 43 directs the State to secure a living wage, decent condition of work and social and cultural opportunities to all workers through legislation or economic organisation.
- (11) Article 43A provides for the participation of workers in Management of Industries through legislation.

28) What is meant by judicial activism? Explain the role of the courts in enforcing human rights

Ans:

The active role of the judiciary in upholding the rights of citizens and preserving the constitutional and legal system of the country is known as judicial activism. Judicial activism is an effective tool for upholding citizens' rights and implementing constitutional principles when the executive and legislature fail to do so. Citizens have the judiciary as the last hope for protecting their rights when all other doors are closed. The Indian judiciary has been considered as the guardian and protector of the Indian Constitution.

The Supreme Court of India is the highest judicial forum and the highest constitutional court which, as the guardian of the Constitution of India, has an integrated and yet independent judiciary. Since independence, the judiciary has played a very active role in dispensing justice, beginning with the *A. K. Gopalan v. State of Madras* case (1950) and the *Shankari Prasad* case (1951), etc. However, the modern trend of judicial activism began in 1973 when the Allahabad High Court rejected the candidature of Indira Gandhi in *State of Uttar Pradesh v. Raj Narain*. The introduction of Public Interest litigation by Justice V.R. Krishna Iyer further expanded its scope and gave a new impetus to judicial activism.

The doctrine of the Basic Structure of the constitution stated in the landmark **Kesavananda Bharati case [AIR 1973 SC 1461]** is one of the historic ones in relation to judicial activism. Subsequent judicial activism further expanded on the scope of what elements form the basic structure of the constitution.

In **D. K. Basu v. State of West Bengal [AIR 1997 SC 610]**, the petitioner's letter was treated as a writ petition and PIL and dealt with the issue of custodial violence and torture in police custody. The Court issued a list of 11 guidelines in addition to the Constitutional and Statutory Safeguards to be followed in all cases of arrest and detention.

In **Vishaka v. State of Rajasthan [AIR 1997 SC 3011]**, the apex court issued a set of guidelines to curb sexual harassment at the workplace. These guidelines formed the basis for a new enactment.

29) Write a short note on: Role of the Supreme Court in protecting and enforcing human rights

Ans:

The human rights of the people of India are enshrined in the Fundamental rights guaranteed under the Constitution of India. The Supreme Court of India is the highest

judicial forum and the highest constitutional court which is the guardian of the Constitution.

It is a constitutional mandate of the judiciary to protect human rights of the citizens. Supreme Court is empowered to take action to enforce the fundamental rights guaranteed in the Constitution of India and the machinery for redress is provided under Article 32 of the constitution. An aggrieved person can directly approach the Supreme Court for the protection of his/her fundamental rights, redressal of grievances and enjoyment of fundamental rights. The Supreme Court is empowered to issue appropriate order, directions and writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo-Warranto and Certiorari .

Additionally, the Supreme Court has used Judicial activism as an effective tool for upholding citizens' rights and implementing constitutional principles when the executive and legislature fail to do so. From time to time the Supreme Court has expanded the ambit of the Right to Life guaranteed under Article 21 of the Constitution. For instance, in **Maneka Gandhi v. Union of India (1978 AIR SC 597)**, the Supreme Court established a relationship between Articles 14, 19 and 21 (known as 'golden triangle' or 'trinity') and held that the right to live is not merely a physical right but includes the right to live with human dignity. In **Vishakha v. State of Rajasthan (AIR 1997 SC 3011)**, the Supreme Court has declared sexual harassment of a working woman at her work as amounting to the violation of right of gender equality and hence the rights under Articles 14, 15 and 21, which includes the rights to life and liberty.

30) Discuss in detail the role of the Supreme Court in protection of human rights in India

Ans: See answer to Q 29 immediately preceding above.

31) Discuss the important contributions made by the judiciary in the upliftment of human rights in India

Ans:

In India, human rights are enshrined in Part III of the Constitution as Fundamental Rights. Apart from the Fundamental Rights, the Directive Principles of State Policy contained in Chapter IV of the Constitution make provisions for directing the State to pursue policies many of which are directly relatable to human rights.

It is a constitutional mandate of the judiciary to protect human rights of the citizens. The right to enforce a fundamental right by invoking the writ jurisdiction of the Supreme Court under Article 32 of the Constitution is itself a fundamental right. The writ jurisdiction of the High Courts can be invoked under Article 226 of the Constitution.

The history of independent India's judiciary is replete with examples of the judicial activism of the higher courts to protect and enforce fundamental rights, often expanding the scope of fundamental rights to include matters of significant human rights within the ambit of fundamental rights. Thus, for instance, the Supreme Court has frequently expanded the ambit of Right to Life under Article 21 as in the case of **Maneka Gandhi v. Union of India (1978 AIR SC 597)**, where it right to live is not merely a physical right but includes the right to live with human dignity and in **Vishakha v. State of Rajasthan (AIR 1997 SC 3011)**, where it declared that sexual harassment of a working woman at her work as amounting to the violation of right of gender equality and hence the rights under Articles 14, 15 and 21, which includes the rights to life and liberty. The higher courts have also used the power of judicial review to strike down legislations or parts thereof which were violative of the Constitution. The concept of Public Interest Litigation introduced a new phase in judicial activism relaxing the rule of locus standi to move the Court. Public Interest Litigation acquired a new dimension – namely that of 'epistolary jurisdiction' with the decision in the case of **Sunil Batra v. Delhi Administration (AIR 1978 SC 1675)** wherein a letter written by a prisoner, lodged in jail, to a Judge in the Supreme Court was treated as a writ petition. Similarly, in **D. K. Basu v. State of West Bengal (AIR 1997 SC 610)**, the petitioner's letter was treated as a writ petition and PIL and the issue of custodial violence and torture in police custody was taken up.

In summary, the Judiciary is playing a crucial role in the protection of the human rights of the people from time to time and again by expanding the scope of the rights and recognizing new rights with the needs of the times. Judiciary has expanded the scope of right to life to include entitlements which are vital for the enjoyment of right to life with dignity. Courts have protected right of the people in numerous cases whether it is a right against violence in custody, to live in a pollution free environment, right to health, right to adequate wages of the workers, safety of the women at workplace and compensation to rape victim.

32) 'The judiciary has always been active'. Explain the concept of judicial activism in the implementation of international conventions for safe guarding human rights of citizens, with the help of landmark Supreme Court Judgments.

Ans:

Judicial activism can be broadly understood as the active role of the judiciary to protect human rights primarily in situations where the executive and the legislature have been found wanting. Courts in India have always been active though activism, as is understood today, took roots in the 1960s and grew rapidly after the 1970s, especially after the relaxation of the locus standi rule through the initiation of Public Interest Litigation.

A landmark case in judicial activism, was the **Kesavananda Bharati case (AIR 1973 SC 1461)** in which the Supreme Court enunciated the doctrine of the Basic Structure of the

Constitution. Subsequent judicial activism further expanded on the scope of what elements form the basic structure of the constitution.

One of the earliest cases on Public Interest Litigation which gained widespread coverage, was that of **Hussainara Khatoon v State of Bihar (AIR 1979 SC 1369)** which focused on the inhuman conditions of the prisons and under trial prisoners languishing in jails merely because their trials were pending. The Supreme Court held that in matters which are in the larger interest of the public, right to speedy justice is a Fundamental Right, which comes within the scope of 'life' and 'personal liberty' guaranteed under Article 21.

The concept of Public Interest Litigation introduced a new phase in judicial activism relaxing the rule of locus standi to move the Court. Public Interest Litigation acquired a new dimension – namely that of 'epistolary jurisdiction' with the decision in the case of **Sunil Batra v. Delhi Administration (AIR 1978 SC 1675)** wherein a letter written by a prisoner, lodged in jail, to a Judge in the Supreme Court was treated as a writ petition. Similarly, in **D. K. Basu v. State of West Bengal (AIR 1997 SC 610)**, the petitioner's letter was treated as a writ petition and PIL and the issue of custodial violence and torture in police custody was taken up.

33) Discuss the role of S.C. in improvement of Rights relating to healthy environment

Ans:

The Supreme Court has not only played a leading role in the implementation of environmental laws but also interpreted the right to life under Article 21 to include a right to healthy and pollution free environment, as a fundamental right. In so doing the Supreme Court has propounded new principles/doctrines or reinforced existing ones such as:

- (1) Doctrine Of Absolute Liability – Propounded in the Bhopal Gas Tragedy case i.e. **Union Carbide Corporation v. Union Of India (AIR 1990 SC 273)** and re-iterated in the **M.C. Mehta v. Union of India (Oleum Gas leak case) [(2006) 3 SCC 399]**. The Court held that where an enterprise is occupied with an inherently dangerous or a hazardous activity and harm results to anybody by virtue of a mishap in the operation of such dangerous or naturally unsafe movement, the enterprise will be absolutely liable notwithstanding any natural phenomena being the immediate trigger for the mishap. The Court brought in the doctrine of absolute liability which was a further rigour over the doctrine of strict liability established in the landmark English case of *Reynolds v. Fletcher [(1868) UKHL 1]*.
- (2) Polluter Pays Principle – In **Vellore Citizens Welfare Forum v. Union of India (AIR 1996 SC 2715)**, the Court declared that the polluter pays principle is an essential feature of the sustainable development.

- (3) Precautionary Principle – In the above quoted Vellore Citizens’ Forum case, The Supreme Court of India, in Vellore Citizens Forum Case, developed the following three concepts for the precautionary principle:
- (i) Environmental measures must anticipate, prevent and attack the causes of environmental degradation
  - (ii) Lack of scientific certainty should not be used as a reason for postponing measures
  - (iii) Onus of proof is on the actor to show that his action is benign
- (4) Public Trust Doctrine – In **M.C.Mehta v. Kamal Nath and Others [(1997)1 SCC 388.]**, it was held that the Public Trust Doctrine primarily rests on the principle that certain resources like air, water, sea and the forests have such a great importance to people as a whole that it would be wholly unjustified to make them a subject of private ownership.
- (5) Doctrine Of Sustainable Development – In **Rural Litigation and Entitlement Kendra v. State of UP (AIR 1987 SC 1037)**, the court for the first time dealt with the issue relating to the environment and development and stated held that, it is always to be remembered that these are the permanent assets of mankind and not intended to be exhausted in one generation. In the Vellore Citizen’s Welfare Forum case, the Supreme Court observed that sustainable development has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting eco- system.

In the **Charan Lal Sahu v. Union Of India (1990 AIR 1480)**, the Supreme Court underscored that the right to life guaranteed by Article 21 of the Constitution includes the right to a wholesome environment.

- 34) Establish the links between environment and human rights. Show, with relevant case law, how the quality of life is included in the right to life as guaranteed under Article 21A of the Constitution of India

Ans:

All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation.

In the Indian context, while protection of the environment finds place in the Directive Principles of State Policy under Article 48A and in the Fundamental Duties under Article 51A (g) of the Constitution of India, it is through judicial activism that issues relating to environment and quality of life came to be regarded as part of the Fundamental Right to Life under Article 21.

The Right to Life under Article 21 means a life of dignity to live in a proper environment free from dangers of diseases and infection. Maintenance of health, preservation of the

sanitation and environment have been held to fall within the purview of Article 21 as it adversely affects the life of the citizens and amounts to slow poisoning, reducing the life of the citizens. In **M.C. Mehta v. Union of India [(2006) 3 SCC 399]**, the Court held that the blatant and large-scale misuse of residential premises for commercial use in Delhi violated the right to salubrious and decent environment.

In **Murli S. Deora v. Union of India (AIR 2002 SC 40)**, the Court held that persons not indulging in smoking cannot be subjected to passive smoking on account of the act of smokers. Right to Life under Article 21 is affected as a non-smoker may become a victim of someone smoking in a public place.

In **Vellore Citizens' Welfare Forum v. Union of India [1996 (5) SCC 647]**, the Supreme Court held that Article 21 includes right to live life of dignity in healthy environment with proper sanitation system and free of pollution.

In **Bandhua Mukti Morcha v. Union of India (1984 AIR 802)**, the Court stated the providing pure drinking water is essential to health and welfare of workmen and it derived the concept of right to 'healthy environment' as part of the Right to Life.

35) 'The right to a clean and healthy environment is a fundamental right'. Explain with reference to case law.

Ans:

A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation.

The Right to Life under Article 21 means a life of dignity to live in a proper environment free from dangers of diseases and infection. Maintenance of health, preservation of the sanitation and environment have been held to fall within the purview of Article 21 as it adversely affects the life of the citizens and amounts to slow poisoning, reducing the life of the citizens. In **M.C. Mehta v. Union of India [(2006) 3 SCC 399]**, the Court held that the blatant and large-scale misuse of residential premises for commercial use in Delhi violated the right to salubrious and decent environment.

In **Vellore Citizens' Welfare Forum v. Union of India [1996 (5) SCC 647]**, the Supreme Court held that Article 21 includes right to live life of dignity in healthy environment with proper sanitation system and free of pollution.

36) Write an essay on: Human Rights and the environment. Are laws in India adequate to protect the environment

Ans:

All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Without a healthy environment, we are unable to fulfil our aspirations. We may not have access to even the minimum standards of human dignity.

In the context of human rights, there are two views related to environment. The first is that the right to a healthy environment is itself a human right and the second that human rights related to the environment can be derived from other human rights like the right to life, right to health, etc. The second view found support at the 1972 Stockholm Conference and in the 1992 Rio Declaration, which recognised the critical role that the exercise of human rights plays in environmental matters. It was also reflected in the pronouncements of the Indian judiciary which has included it as part of the Right to life under Article 21 of the Indian Constitution.

India has an impressive number of environmental regulations, centred on the original Water Act of 1974 and Air Act of 1981, to deal with increasingly hazardous pollution levels. However, there is no current law specifically addressing soil pollution and an announcement of an intention to enact one is keenly awaited. Notwithstanding, the existence of laws, the overall implementation is perhaps not as impressive. While Air pollution control measures have been reasonably well implemented, perhaps because air pollution policies were often driven by citizen complaints and an activist Supreme Court, the same cannot be said about water. It is widely believed that the regulatory agencies need greater empowerment to make implementation more successful. Not infrequently, the judiciary has intervened with laudable positive outcomes but the implementation framework still needs to be strengthened.

37) Write a short note on: Judicial Activism in environment law

Ans:

The most significant reason for introduction of judicial activism in environment law is the advent of the concept of Public Interest Litigation which brought in its wake a relaxation the rule of locus standi thereby providing environmental activists the scope to move court under Article 32 and 226 of the Constitution of India. It was a direct outcome of such activism that maintenance of health, preservation of the sanitation and environment have been held to fall within the purview of the Right to Life under Article 21 of the Constitution. Thus, in **In M.C. Mehta v. Union of India [(2006) 3 SCC 399]**, the Court held that the blatant and large-scale misuse of residential premises for commercial use in Delhi violated the right to salubrious and decent environment.

In **Murli S. Deora v. Union of India (AIR 2002 SC 40)**, the Court held that persons not indulging in smoking cannot be subjected to passive smoking on account of the act of smokers. Right to Life under Article 21 is affected as a non-smoker may become a victim of someone smoking in a public place.

In **Vellore Citizens' Welfare Forum v. Union of India [1996 (5) SCC 647]**, the Supreme Court held that Article 21 includes right to live life of dignity in healthy environment with proper sanitation system and free of pollution.

In **Bandhua Mukti Morcha v. Union of India (1984 AIR 802)**, the Court stated the providing pure drinking water is essential to health and welfare of workmen and it derived the concept of right to 'healthy environment' as part of the Right to Life.

38) Explain the concept of Right to healthy environment with the help of Supreme Court Judgments

Ans:

All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Without a healthy environment, we are unable to fulfil our aspirations. We may not have access to even the minimum standards of human dignity. This principle has been underscored in multiple Supreme Court judgments, a snapshot of which is as under:

- (1) In **M.C. Mehta v. Union of India [(2006) 3 SCC 399]**, the Court held that the blatant and large-scale misuse of residential premises for commercial use in Delhi violated the right to salubrious and decent environment.
- (2) In **Murli S. Deora v. Union of India (AIR 2002 SC 40)**, the Court held that persons not indulging in smoking cannot be subjected to passive smoking on account of the act of smokers. Right to Life under Article 21 is affected as a non-smoker may become a victim of someone smoking in a public place.
- (3) In **Vellore Citizens' Welfare Forum v. Union of India [1996 (5) SCC 647]**, the Supreme Court held that Article 21 includes right to live life of dignity in healthy environment with proper sanitation system and free of pollution.
- (4) In **Bandhua Mukti Morcha v. Union of India (1984 AIR 802)**, the Court stated the providing pure drinking water is essential to health and welfare of workmen and it derived the concept of right to 'healthy environment' as part of the Right to Life.

39) What are the salient features of the Protection of Human Rights Act, 1993

Ans:

As per the preamble, the Protection of Human Rights Act, 1993 is an Act to provide for the constitution of National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights.

The Act consists of eight chapters and has forty-three sections.

Chapter I which is the preliminary chapter dealing, in Section 1, with the short title, extent and commencement of the Act and, in Section 2 with the Definitions. "Human Rights" is defined as 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.

Chapter II, consisting of Sections 3 to 11, deals with the constitution of National Human Rights Commission (Commission), procedure for appointment of Chairperson and other Members, their resignation and removal, their term of office and other related matters. Section 10 empowers the Commission to lay down its own regulation and procedures.

Chapter III, consisting of Sections 12 to 16, deals with the functions and powers of the Commission. Section 12 says that the Commission can inquire on a suo motu basis or on a petition from a victim. Section 13 deals with the powers of the Commission and vests it with the powers of a Civil Court under CPC, 1908. Section 14 confers investigative powers on the Commission. Section 15 provides protection to a person giving evidence against any civil or criminal proceeding based on that evidence.

Chapter IV, consisting of Sections 17 to 20, lay down the procedures to be followed by the Commission.

Chapter V, consisting of Sections 21 to 29 deals with the constitution of State Human Rights Commissions, their composition, manner of appointment of members, their resignations/removals, their term of office and other aspects of their working.

Chapter VI, consisting of Section 30 & 31, deals with the setting up of Human Rights courts and appointment of a Special Public Prosecutor.

Chapter VII, consisting of Sections 32 to 35, deals with the Commission's Finance, Accounts, Audit and related matters.

Chapter VIII, consisting of Sections 36 to 43, deals with other miscellaneous matters. Section 36 refers to the jurisdiction of the Commission and also lays down a limitation period of one year for any inquiry from the date on which the alleged human rights violation was committed. Section 38 provides protection to the Government, the Commissions and its members for any action taken in good faith. Section 39 specifies that members and officers of the Commission will be public servants.

40) Define 'human rights' under the Protection of Human Rights Act. 1993. Explain the role of the NHRC.

Ans;

Under the Protection of Human Rights Act, 1993, "Human Rights" is defined as 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.

The National Human Rights Commission functions as a watchdog for the protection of human rights. Its role can be summed up as under:

- (1) Proactively or reactively inquire into violations of human rights by government of India or negligence of such violation by a public servant
- (2) The protection of human rights and recommend measures for their effective implementation
- (3) Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures
- (4) To study treaties and other international instruments on human rights and make recommendations for their effective implementation
- (5) Undertake and promote research in the field of human rights
- (6) To visit jails and study the condition of inmates
- (7) Engage in human rights education 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
- (8) Encourage the efforts of NGOs and institutions that works in the field of human rights voluntarily.
- (9) Considering the necessity for the protection of human rights.
- (10) Requisitioning any public record or copy thereof from any court or office.

41) State the composition and functions of the NHRC

Ans:

The composition of NHRC is as under:

- (1) a Chairperson who has been a Chief Justice of India or a Judge of the Supreme Court;
- (2) one Member who is, or has been, a Judge of the Supreme Court;
- (3) one Member who is, or has been the Chief Justice of a High Court;
- (4) three Members, out of which at least one shall be a woman, to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

Additionally, the Chairperson of the National Commission for Backward Classes, the National Commission for Minorities, the National Commission for Protection of Child Rights, the National Commission for the Scheduled Castes, the National Commission for the Scheduled Tribes, the National Commission for Women and the Chief Commissioner for Persons with Disabilities shall be deemed to be Members of the Commission for the discharge of certain functions of NHRC.

The functions of NHRC can be summarised as:

- (1) Proactively or reactively inquire into violations of human rights by government of India or negligence of such violation by a public servant
- (2) The protection of human rights and recommend measures for their effective implementation
- (3) Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures
- (4) To study treaties and other international instruments on human rights and make recommendations for their effective implementation
- (5) Undertake and promote research in the field of human rights
- (6) To visit jails and study the condition of inmates
- (7) Engage in human rights education 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
- (8) Encourage the efforts of NGOs and institutions that works in the field of human rights voluntarily.
- (9) Considering the necessity for the protection of human rights.
- (10) Requisitioning any public record or copy thereof from any court or office.

42) On whose recommendation, the President of the India appoints the Chairperson of the NHRC

Ans:

As per Section 4 (1) of the Protection of Human Rights Act, 1993, the President of India appoints the Chairperson of NHRC on the recommendation of a Committee which consists of:

- (a) the Prime Minister who is the Chairperson of the Committee
- (b) Speaker of the Lok Sabha
- (c) Minister in-charge of the Ministry of Home Affairs
- (d) Leader of the Opposition in the Lok Sabha
- (e) Leader of the Opposition in the Rajya Sabha
- (f) Deputy Chairman of the Rajya Sabha

The proviso to the section also stipulates that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

43) Write a short note on : Judicial Activism in environment law

Ans: See answer to Q 37 on pages 21-22.

44) Write a short note on : NHRC

Ans:

NHRC has been set up under the Protection of Human Rights Act, 1993 for the protection and promotion of human rights. The functions of the Commission as stated in Section 12 of the Act and apart from inquiry into complaints of violation of human rights or negligence in the prevention of such violation by a public servant, includes the study of treaties and international instruments on human rights and make recommendations for their effective implementation to the Government.

The Commission is a high-powered body with a Chairperson who is either a former Chief Justice or a Judge of the Supreme Court. The Commission is responsible for spreading of human rights awareness amongst the masses and encouraging the efforts of all stake holders in the field of human rights literacy not only at the national level but at international level too.

The NHRC, India plays an active role in coordinating with other NHRIs of the world to enhance awareness from the perspective of human rights.

In its inquiry proceedings, NHRC has the powers of a Civil Court.

45) Name any 2 functions of the NHRC

Ans:

The functions of NHRC are:

- (a) inquire, suo motu or on a petition by a victim or on a direction or order of a court, into a complaint of either violation of human rights or 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, any jail for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;

- (d) review the safeguards provided by or under the Constitution or any law for the protection of human rights and recommend measures for their effective implementation;
- (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) undertake 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;
- (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.

46) Discuss the role of the NHRC in the protection of human rights

Ans:

NHRC has been set up under the Protection of Human Rights Act, 1993 for the protection and promotion of human rights. The functions of the Commission as stated in Section 12 of the Act are:

- (a) inquire, suo motu or on a petition by a victim or on a direction or order of a court, into a complaint of either violation of human rights or 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, any jail for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;
- (d) review the safeguards provided by or under the Constitution or any law for the protection of human rights and recommend measures for their effective implementation;
- (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) undertake 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;
- (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.

47) Explain in detail the functioning of NHRC and discuss some of the recommendations made by the NHRC

Ans:

NHRC has been set up under the Protection of Human Rights Act, 1993 for the protection and promotion of human rights. The functions of the Commission as stated in Section 12 of the Act are:

- (a) inquire, suo motu or on a petition by a victim or on a direction or order of a court, into a complaint of either violation of human rights or 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, any jail for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;
- (d) review the safeguards provided by or under the Constitution or any law for the protection of human rights and recommend measures for their effective implementation;
- (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) undertake 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;
- (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.

From time to time, NHRC has made various recommendations. Some of these are:

- (1) Recommendations relating to living conditions of prisoners and problems faced by jail staff
- (2) Recommendations on Right to Education
- (3) Recommendations to evaluate the implementation of MG NREGA Scheme on 10 January 2020
- (4) Recommendations on Child Marriage at the National Conference on Child Marriage
- (5) Recommendations relating to One Stop Crisis Centres
- (6) Recommendations on Good Governance, Development and Human Rights
- (7) Recommendations relating to Bonded Labour
- (8) Recommendations relating to Human Rights Defenders
- (9) Recommendations on Prison Reforms

- (10) Recommendations relating to Children's Homes, Observation Homes, Special Homes and Protective Homes in Chennai, Salem, Madurai and Kanyakumari Districts of Tamilnadu
- (11) Recommendations/Suggestions on the Criminal Law (Amendment) Bill, 2012 to the Parliamentary Standing Committee on Home Affairs
- (12) Recommendations/Suggestions to Justice Verma Committee on Amendments to Criminal Law

NHRC has also issued a number of Advisories, some of which are as under:

- (1) Advisory on protection of Human Rights of the Particularly Vulnerable Tribal Groups (PVTGs) amid Covid-19
- (2) Advisory for Protection of the Rights of Children in the context of COVID-19
- (3) Advisory to identify, release and rehabilitate bonded labourers during Covid-19 pandemic
- (4) Advisory for Upholding Dignity & Protecting the Rights of Dead
- (5) Advisory on Right to Health in view of the second wave of COVID-19 pandemic

48) Explain the functions and powers of the NHRC

Ans:

The functions of NHRC are:

- (a) inquire, suo motu or on a petition by a victim or on a direction or order of a court, into a complaint of either violation of human rights or 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, any jail for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;
- (d) review the safeguards provided by or under the Constitution or any law for the protection of human rights and recommend measures for their effective implementation;
- (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) undertake 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;

- (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.

While inquiring into complaints under the Protection of Human Rights Act, 1993, NHRC, shall have all the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908. The Commission can therefore –

- (a) summon and enforce the attendance of witnesses and examine them on oath;
- (b) order the discovery and production of any document;
- (c) receive evidence on affidavits;
- (d) requisition any public record or copy thereof from any Court or office;
- (e) issue commissions for the examination of witnesses or documents;
- (f) any other matter which may be prescribed.

NHRC also has power to require any person, to furnish information on such points or matters as is considered relevant to, the subject matter of the inquiry

NHRC is also empowered to enter any building or place where it believes that any document relating to the subject-matter of the inquiry may be found, and seize any such document

NHRC also has powers to utilize the services of any Government Officer to conduct investigations.

#### 49) Who constitute the State Human Rights Commission

Ans:

The State Human Rights Commissions is constituted with the following members:

- (a) a Chairperson who has been a Chief Justice or a Judge of a High Court;
- (b) one Member who is, or has been, a Judge of a High Court or District Judge in the State with a minimum of seven years' experience as District Judge;
- (c) one Member to be appointed from among persons having knowledge of or practical experience in matters relating to human rights.

The appointments are made by the Governor on the recommendations of a Committee, consisting of the Chief Minister (as Chairperson of the Committee, the Speaker of the Legislative Assembly, Minister in-charge of the Department of Home in that State and the Leader of the Opposition in the Legislative Assembly.

## 50) Discuss the Universal Declaration of Human Rights, 1948

Ans:

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 as a common standard of achievements for all peoples and all nations. Though, triggered in the context of the Nazi holocaust, UDHR sets out, for the first time, fundamental human rights to be universally protected. Even today, the UDHR stands as the foundation of all UN activities relating to human rights.

The UDHR contains a preamble and 30 Articles which lay down the basic human rights. These were later elaborated, extended and expanded in subsequent international treaties and declarations. The Declaration consists of the following:

- (1) The preamble sets out the historical and social causes that led to the necessity of drafting the Declaration.
- (2) Articles 1–2 establish the basic concepts of dignity, liberty, and equality.
- (3) Articles 3–5 establish other individual rights, such as the right to life and the prohibition of slavery and torture.
- (4) Articles 6–11 refer to the fundamental legality of human rights with specific remedies cited for their defence when violated.
- (5) Articles 12–17 set forth the rights of the individual towards the community, including freedom of movement and residence within each state, the right of property and the right to a nationality.
- (6) Articles 18–21 sanction the so-called "constitutional liberties" and spiritual, public, and political freedoms, such as freedom of thought, opinion, expression, religion and conscience, word, peaceful association of the individual, and receiving and imparting information and ideas through any media.
- (7) Articles 22–27 sanction an individual's economic, social and cultural rights, including healthcare. It upholds an expansive right to an adequate standard of living, and makes special mention of care given to those in motherhood or childhood.
- (8) Articles 28–30 establish the general means of exercising these rights, the areas in which the rights of the individual cannot be applied, the duty of the individual to society, and the prohibition of the use of rights in contravention of the purposes of the United Nations Organization.

51) Write a short note on : Universal Declaration of Human Rights

Ans:

The Universal Declaration of Human Rights (UDHR) is a milestone international document adopted by the United Nations General Assembly that enshrines the rights and freedoms of all human beings. It was adopted by the UN General Assembly on 10 December 1948 at Paris, France.

A foundational text in the history of human and civil rights, the Declaration consists of 30 articles detailing an individual's "basic rights and fundamental freedoms" and affirming their universal character as inherent, inalienable, and applicable to all human beings. Adopted as a "common standard of achievement for all peoples and all nations", the UDHR commits nations to recognize all humans as being "born free and equal in dignity and rights" regardless of "nationality, place of residence, gender, national or ethnic origin, colour, religion, language, or any other status". It directly inspired the development of international human rights law, and was the first step in the formulation of the International Bill of Human Rights.

Although not legally binding, the contents of the UDHR have been elaborated and incorporated into subsequent international treaties, regional human rights instruments, and national constitutions and legal codes. All 193 member states of the United Nations have ratified at least one of the nine binding treaties influenced by the Declaration, with the vast majority ratifying four or more

52) What are the salient features of the Universal Declaration of Human Rights, 1948

Ans:

The salient features of the Universal Declaration of Human Rights are:

- (1) The preamble sets out the historical and social causes that led to the necessity of drafting the Declaration.
- (2) Articles 1–2 establish the basic concepts of dignity, liberty, and equality.
- (3) Articles 3–5 establish other individual rights, such as the right to life and the prohibition of slavery and torture.
- (4) Articles 6–11 refer to the fundamental legality of human rights with specific remedies cited for their defence when violated.
- (5) Articles 12–17 set forth the rights of the individual towards the community, including freedom of movement and residence within each state, the right of property and the right to a nationality.
- (6) Articles 18–21 sanction the so-called "constitutional liberties" and spiritual, public, and political freedoms, such as freedom of thought, opinion, expression, religion and conscience, word, peaceful association of the individual, and receiving and imparting information and ideas through any media.

- (7) Articles 22–27 sanction an individual's economic, social and cultural rights, including healthcare. It upholds an expansive right to an adequate standard of living, and makes special mention of care given to those in motherhood or childhood.
- (8) Articles 28–30 establish the general means of exercising these rights, the areas in which the rights of the individual cannot be applied, the duty of the individual to society, and the prohibition of the use of rights in contravention of the purposes of the United Nations Organization.

53) Name any two objectives of the UDHR (Universal Declaration of Human Rights)

Ans:

The UDHR urges member nations to promote a number of human, civil, economic, and social rights, asserting these rights are part of the “foundation of freedom, justice and peace in the world.” It aims to recognize that, “the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” In this background, the objectives of UDHR, as laid out in the preamble can be summarised as under

- (1) The recognition of the inherent dignity and of the equal and inalienable rights of all human beings as being the foundation of freedom, justice and peace in the world.
- (2) The necessity that human rights should be protected by the rule of law
- (3) The necessity to promote the development of friendly relations between nations
- (4) The reaffirmation of faith in the equal rights for men and women and the determination to promote social progress and better standards of life
- (5) The reaffirmation of faith in fundamental human rights, the dignity and worth of the human person and in equal rights of men and women
- (6) To achieve the promotion of universal respect for, and observance of human rights and fundamental freedoms.

54) Explain in detail the Universal Declaration of Human Rights and its relevance in the modern world

Ans:

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 as a common standard of achievements for all peoples and all nations. Though, triggered in the context of the Nazi holocaust, UDHR sets out, for the first time, fundamental human rights to be universally protected. Even today, the UDHR stands as the foundation of all UN activities relating to human rights.

The UDHR contains a preamble and 30 Articles which lay down the basic human rights. These were later elaborated, extended and expanded in subsequent international treaties and declarations. The Declaration consists of the following:

- (1) The preamble sets out the historical and social causes that led to the necessity of drafting the Declaration.
- (2) Articles 1–2 establish the basic concepts of dignity, liberty, and equality.
- (3) Articles 3–5 establish other individual rights, such as the right to life and the prohibition of slavery and torture.
- (4) Articles 6–11 refer to the fundamental legality of human rights with specific remedies cited for their defence when violated.
- (5) Articles 12–17 set forth the rights of the individual towards the community, including freedom of movement and residence within each state, the right of property and the right to a nationality.
- (6) Articles 18–21 sanction the so-called "constitutional liberties" and spiritual, public, and political freedoms, such as freedom of thought, opinion, expression, religion and conscience, word, peaceful association of the individual, and receiving and imparting information and ideas through any media.
- (7) Articles 22–27 sanction an individual's economic, social and cultural rights, including healthcare. It upholds an expansive right to an adequate standard of living, and makes special mention of care given to those in motherhood or childhood.
- (8) Articles 28–30 establish the general means of exercising these rights, the areas in which the rights of the individual cannot be applied, the duty of the individual to society, and the prohibition of the use of rights in contravention of the purposes of the United Nations Organization.

The relevance of UDHR in the modern world can be gauged from the fact that though the document is not legally binding, it has been consistently invoked for more than seven decades now. In a way, it has become binding as part of customary international law and is therefore, a potent instrument to apply moral and diplomatic pressure on states. Further, the UDHR has been relied upon and profusely cited in support of judicial decisions in several countries. For instance, Courts in Italy have taken a view that UDHR is not a mere declaration of intent but must be deemed to have become a part of domestic Italian law. Courts in Chile have accepted the UDHR as a declaration of customary international law.

The Constitution of India contains elaborate provisions for the protection of the rights contained in the UDHR. Indian Courts have relied on the UDHR when interpreting fundamental rights guaranteed by the Constitution. In the landmark case of **Keshavanands Bharati v. State of Kerala (AIR 1973 SC 1461)**, the Supreme Court observed that although UDHR may not be legally binding, it shows how India understood the nature of human rights when the Indian Constitution was adopted. In **Chairman, Railway Board v. Mrs. C. Das (AIR 2000 Sc 988)**, the Supreme Court observed that the applicability of UDHR and the principles contained therein can be read, if need be into the domestic jurisprudence of India.

55) Write a short note on : India and the Universal Declaration of Human Rights

Ans:

India was a signatory to the Universal Declaration of Human Rights. The Indian constitution was adopted by the Constituent Assembly on Dec 26, 1949, which came into force on Jan 26, 1950. Our Indian Constitution was greatly influenced by the Universal Declaration of Human Rights, 1948. Provisions of Part III which stands for Fundamental Rights and Part IV for Directive Principles of State Policy bear a close resemblance to the Universal Declaration of Human Rights. As a result, a number of fundamental rights guaranteed in Part III of the Indian Constitution are similar to the provisions of the Declaration.

The Fundamental Rights that are guaranteed under the Constitution have a close similarity with those in the UN Declaration of Human Rights in form and content in Articles 14,15,16,19,20,21,23,25,29,31and 32. For example, in UDHR, Article 1 refers to all human beings being free and equal and Article 2 refers to Freedom from discrimination. The same rights are enshrined in Articles 14 & 15 of the Indian Constitution. Similarly, Article 3 of the UDHR deals with Right Life as does Article 21 of the Indian Constitution. Article 26 of UDHR talks about the Right to Education which is enshrined in Article 21A of the Indian Constitution.

The Economic, Social and Cultural Rights enshrined in the Universal Declaration of Human Rights Part are included in the Directive Principles of State Policy in Part IV of the Indian Constitution.

The Fundamental Duties enshrined in the Constitution of India, contained in Part IV A, are in consonance with Article 29 (1) of the Universal Declaration of Human Rights, which says, "everyone has duties to the community in which alone the free and full development of his personality is possible".

56) Compare the provisions of Universal Declaration of Human Rights vis-a-vis the Indian Constitution

Ans:

Our Indian Constitution was greatly influenced by the Universal Declaration of Human Rights, 1948. Provisions of Part III which stands for Fundamental Rights and Part IV for Directive Principles of State Policy bear a close resemblance to the Universal Declaration of Human Rights. As a result, a number of fundamental rights guaranteed in Part III of the Indian Constitution are similar to the provisions of the Declaration.

The Fundamental Rights that are guaranteed under the Constitution have a close similarity with those in the UN Declaration of Human Rights in form and content in

Articles 14,15,16,19,20,21,23,25,29,31and 32. For example, in UDHR, Article 1 refers to all human beings being free and equal and Article 2 refers to Freedom from discrimination. The same rights are enshrined in Articles 14 & 15 of the Indian Constitution. Similarly, Article 3 of the UDHR deals with Right Life as does Article 21 of the Indian Constitution. Article 26 of UDHR talks about the Right to Education which is enshrined in Article 21A of the Indian Constitution.

The Economic, Social and Cultural Rights enshrined in the Universal Declaration of Human Rights Part are included in the Directive Principles of State Policy in Part IV of the Indian Constitution.

The Fundamental Duties enshrined in the Constitution of India, contained in Part IV A, are in consonance with Article 29 (1) of the Universal Declaration of Human Rights, which says, "everyone has duties to the community in which alone the free and full development of his personality is possible".

57) In which year was the ICCPR adopted and when did it came into force

Ans:

The International Covenant on Civil and Political Rights (ICCPR), a multilateral treaty, aimed at securing and protecting civil and political rights, was adopted by UN General Assembly on December 16, 1966. It came into force on March 23, 1976 (as at least thirty-five states had to ratify it). Today it has more than 170 members, including India.

58) Explain in detail the main objects, significance and importance of the International Convention on Civil and Political Rights

Ans:

The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty that commits countries to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. It was adopted by United Nations General Assembly on 16 December 1966 and came into force 23 March 1976 after its thirty-fifth ratification. or accession.

The ICCPR's importance can be gauged from the fact that it is considered a seminal document in the history of international law and human rights, forming part of the International Bill of Human Rights, along with the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR).

The ICCPR is divided into six parts, containing 53 Articles. Later two optional protocols were signed by some of the signatories to the original covenant. The Articles are as under:

- (1) Part 1 (Article 1) recognises the right of all people to self-determination.
- (2) Part 2 (Articles 2 – 5) obliges signatory parties to pass legislation, wherever necessary, to give effect to the rights recognised in the Covenant, and to provide an effective legal remedy for any violation of those rights. It also requires that such rights be recognised with any kind of distinction between people.
- (3) Part 3 (Articles 6 – 27), is the heart of the Covenant as it lays down a comprehensive list of substantive rights and fundamental freedoms such as the inherent right to life, right to marry, prohibition of arbitrary arrest and detention prohibition of torture etc.
- (4) Part 4 (Articles 28 – 45) governs the establishment and operation of the Human Rights Committee.
- (5) Part 5 (Articles 46 & 47) clarifies that the Covenant is not to be interpreted as interfering with the operations of the UN or with the inherent right of people to enjoy and utilise their natural wealth and resources.
- (6) Part 6 (Articles 48 – 53) governs ratification, coming into force and amendment of ICCPR.

59) What are the objects of the International Convention on Civil and Political Rights

Ans:

The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty that commits countries to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. It was adopted by United Nations General Assembly on 16 December 1966 and came into force 23 March 1976 after its thirty-fifth ratification. or accession.

The ICCPR is divided into six parts, containing 53 Articles. These, articles which bring out the purpose and objectives are as under:

- (1) Part 1 (Article 1) recognises the right of all people to self-determination.
- (2) Part 2 (Articles 2 – 5) obliges signatory parties to pass legislation, wherever necessary, to give effect to the rights recognised in the Covenant, and to provide an effective legal remedy for any violation of those rights. It also requires that such rights be recognised with any kind of distinction between people.
- (3) Part 3 (Articles 6 – 27), is the heart of the Covenant as it lays down a comprehensive list of substantive rights and fundamental freedoms such as the inherent right to life, right to marry, prohibition of arbitrary arrest and detention prohibition of torture etc.
- (4) Part 4 (Articles 28 – 45) governs the establishment and operation of the Human Rights Committee.

- (5) Part 5 (Articles 46 & 47) clarifies that the Covenant is not to be interpreted as interfering with the operations of the UN or with the inherent right of people to enjoy and utilise their natural wealth and resources.
- (6) Part 6 (Articles 48 – 53) governs ratification, coming into force and amendment of ICCPR.

60) Explain the salient features of the International Convention on Civil and Political Rights

Ans:

The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty that commits countries to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. It was adopted by United Nations General Assembly on 16 December 1966 and came into force 23 March 1976 after its thirty-fifth ratification. or accession.

The ICCPR is divided into six parts, containing 53 Articles. Later two optional protocols were signed by some of the signatories to the original covenant. The Articles are as under:

- (1) Part 1 (Article 1) recognises the right of all people to self-determination.
- (2) Part 2 (Articles 2 – 5) obliges signatory parties to pass legislation, wherever necessary, to give effect to the rights recognised in the Covenant, and to provide an effective legal remedy for any violation of those rights. It also requires that such rights be recognised with any kind of distinction between people.
- (3) Part 3 (Articles 6 – 27), is the heart of the Covenant as it lays down a comprehensive list of substantive rights and fundamental freedoms such as the inherent right to life, right to marry, prohibition of arbitrary arrest and detention prohibition of torture etc.
- (4) Part 4 (Articles 28 – 45) governs the establishment and operation of the Human Rights Committee.
- (5) Part 5 (Articles 46 & 47) clarifies that the Covenant is not to be interpreted as interfering with the operations of the UN or with the inherent right of people to enjoy and utilise their natural wealth and resources.
- (6) Part 6 (Articles 48 – 53) governs ratification, coming into force and amendment of ICCPR.

61) What is ICCPR and ICESCR

Ans:

The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty that commits countries to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. It was adopted by United Nations General Assembly on 16 December 1966 and came into force 23 March 1976 after its thirty-fifth ratification. or accession.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966 through and came into force from 3 January 1976. It commits its parties to work toward the granting of economic, social, and cultural rights (ESCR) to the Non-Self-Governing and Trust Territories and individuals, including labour rights and the right to health, the right to education, and the right to an adequate standard of living. As of July 2020, the Covenant has 171 parties. A further four countries, including the United States, have signed but not ratified the Covenant.

The ICCPR and ICESCR, along with the Universal Declaration of Human Rights (UDHR), are part of the International Bill of Human Rights

62) Name any two rights concerning the family guaranteed under the ICCPR

Ans:

Rights concerning the family guaranteed under ICCPR are:

- (1) The right to marry and found a family
- (2) Recognition of the family as the natural and fundamental group unit of society
- (3) Protection of the family by the society and the State

63) Write a short note on : The two optional Protocols of the International Convention on Civil and Political Rights

Ans:

The are two Optional Protocols to the Covenant are as under:

- (1) The First Optional Protocol to the ICCPR establishes an individual complaints mechanism, allowing individuals to complain to the Human Rights Committee about violations of the Covenant. This Optional Protocol allows individuals, whose countries are party to the ICCPR and the protocol, who claim that their rights under the ICCPR have been violated, and who have exhausted all domestic remedies, to

submit written communications to the UN Human Rights Committee. This protocol was adopted by the UN General Assembly on 16 December 1966, and came into force on 23 March 1976. As of May 2020, the First Optional Protocol had 116 parties.

- (2) The Second Optional Protocol abolishes the death penalty. It was created on 15 December 1989 and came into force on 11 July 1991. This Optional Protocol commits its members to the abolition of the death penalty within their borders, though Article 2.1 allows parties to make a reservation allowing execution "in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime". As of April 2022, this Optional Protocol has 90 state parties.

#### 64) Explain ICESCR

Ans:

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966 through and came into force from 3 January 1976. It commits its parties to work toward the granting of economic, social, and cultural rights (ESCR) to the Non-Self-Governing and Trust Territories and individuals, including labour rights and the right to health, the right to education, and the right to an adequate standard of living. The Covenant is monitored by the UN Committee on Economic, Social and Cultural Rights.

The Covenant is divided into the following five parts:

- (1) Part 1 recognises the right of all people to self-determination with respect to their political status, pursuit of their economic, social & cultural goals and the disposal of their own resources.
- (2) Part 2 establishes the principle of "progressive realisation" and recognises the right without discrimination of any kind.
- (3) Part 3 lists the economic, social and cultural rights which includes the rights to work under favourable conditions, the right to social security, the right to family life, the right to an adequate standard of living, right to health and the right to participate in cultural life.
- (4) Part 4 governs the reporting and monitoring of the Covenant and the steps taken by the parties to implement it.
- (5) Part 5 governs ratification, coming into force and amendment of the Covenant.

#### 65) Write a short note on : American Convention on Human Rights

Ans:

The American Convention on Human Rights, also known as the Pact of San Jose is an international human rights instrument. It was adopted by many countries in the Western

Hemisphere in San Jose, Costa Rica, on 22 November 1969. It came into force after the eleventh instrument of ratification by Grenada on 18 July 1978.

According to its preamble, the purpose of the Convention is "to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man."

The contents of the various chapters of the convention are as under:

Chapter I establishes the general obligation of the state parties to uphold the rights set forth in the Convention to all persons under their jurisdiction, and to adapt their domestic laws to bring them into line with the Convention.

The 23 articles of Chapter II give a list of individual civil and political rights due to all persons, including the right to life "in general, from the moment of conception".

- (1) The single article in Chapter III deals with economic, social, and cultural rights. The somewhat cursory treatment given to this issue here was expanded some ten years later with the Protocol of San Salvador.
- (2) Chapter IV describes those circumstances in which certain rights can be temporarily suspended.
- (3) Chapter V points out that individuals have responsibilities as well as rights.
- (4) Chapters VI to IX contain provisions for the creation and operation of the two bodies responsible for overseeing compliance with the Convention: the Inter-American Commission, based in Washington, D.C., United States, and the Inter-American Court, headquartered in San José, Costa Rica.
- (5) Chapter X deals with mechanisms for ratifying the Convention, amending it or placing reservations in it, or denouncing it

In the ensuing years, the Convention supplemented its provisions with two additional protocols. The first additional Protocol addresses Economic, Social, and Cultural Rights while the second Protocol deals with the abolition of the Death Penalty.

66) Write a short note on : European Convention on Human Rights

Ans:

The European Convention on Human Rights (ECHR) is a regional treaty for the protection of human rights and fundamental freedoms in Europe. Formally known as the Convention for the Protection of Human Rights and Fundamental Freedoms, it was signed at Rome on November 4, 1950 and came into force on September 3, 1953. All member states of the Council of Europe are parties to the Convention.

The Convention consists of five Sections, divided into several Articles. The main rights and freedoms are contained in Section I within Articles 2 to 18. Most Articles are divided

into two parts, the first setting out the right and the second listing out the exceptions and limitations to the right.

Some of the rights are:

- (1) Everyone's life shall be protected by law.
- (2) No one shall be subjected to torture or to inhuman or degrading punishment.
- (3) No one shall be held in slavery or servitude
- (4) Anyone charged with a criminal offence will be presumed innocent till proved guilty.
- (5) Everyone has the right to freedom of thought, conscience and religion.
- (6) Everyone has the right to freedom of expression.
- (7) Men and women of marriageable age have the right to marry and establish a family.
- (8) The enjoyment of the rights shall be secured without any discrimination.

The ECHR established the European Court of Human Rights in Strasbourg, France. The Court provides a very strong redressal mechanism wherein even a single individual can file a complaint alleging a violation of his rights guaranteed under the ECHR. A judgment of the Court is binding on the concerned State. This platform to individuals to redress their grievances before a judicial forum, is a unique feature of the ECHR. For the effective implementation of the ECHR there is also the European Commission of Human Rights which monitors the execution of the Court's judgments.

67) What does the European Convention on Human Rights concerned with

Ans:

The European Convention on Human Rights (ECHR), formally the Convention for the Protection of Human Rights and Fundamental Freedoms) is an international convention to protect human rights and political freedoms in Europe. The Convention has had a significant influence on the law in Council of Europe member countries and is widely considered the most effective international treaty for human rights protection.

The Convention guarantees specific rights and freedoms and prohibits unfair and harmful practices as under:

- (1) the right to life (Article 2)
- (2) freedom from torture (Article 3)
- (3) freedom from slavery (Article 4)
- (4) the right to liberty (Article 5)
- (5) the right to a fair trial (Article 6)
- (6) the right not to be punished for something that wasn't against the law at the time (Article 7)
- (7) the right of respect for family and private life (Article 8)
- (8) freedom of thought, conscience and religion (Article 9)
- (9) freedom of expression (Article 10)

- (10) freedom of assembly (Article 11)
- (11) the right to marry and start a family (Article 12)
- (12) the right not to be discriminated against in respect of these rights (Article 14)
- (13) the right to protection of property (Protocol 1, Article 1)
- (14) the right to education (Protocol 1, Article 2)
- (15) the right to participate in free elections (Protocol 1, Article 3)
- (16) the abolition of the death penalty (Protocol 13)

By setting up the European Court of Human Rights, the ECHR has also put in place a very robust mechanism for individuals in member states to raise individual complaints with a judicial forum whose decision is binding on each such State.

#### 68) What is the European Social Charter

Ans:

The European Social Charter is a Council of Europe treaty that guarantees fundamental social and economic rights as a counterpart to the European Convention on Human Rights, which refers to civil and political rights. It guarantees a broad range of everyday human rights related to employment, housing, health, education, social protection and welfare.

The Charter lays specific emphasis on the protection of vulnerable persons such as elderly people, children, people with disabilities and migrants. It requires that enjoyment of the abovementioned rights be guaranteed without discrimination.

No other legal instrument at pan-European level can provide such an extensive and complete protection of social rights as that provided by the Charter, which also serves as a point of reference in European Union law; most of the social rights in the EU Charter of Fundamental Rights are based on the relevant articles of the Charter.

The Charter is therefore seen as the Social Constitution of Europe and represents an essential component of the continent's human rights architecture.

Part I of the Charter contains a list of 19 social and economic rights such as the right to earn one's living in an occupation of one's choice. Right to just conditions of work, right to safe and healthy working conditions, protection of children against physical and moral hazards, right to social security etc.

#### 69) Name any two international regional treaties concerning protection of human rights

Ans:

Regional Treaties include:

- (1) The American Convention on Human Rights, also known as the Pact of San Jose, is an international human rights instrument. It was adopted by many countries in the Western Hemisphere in San Jose, Costa Rica, on 22 November 1969. It came into force after the eleventh instrument of ratification by Grenada on 18 July 1978.
- (2) The European Convention on Human Rights (ECHR), formally the Convention for the Protection of Human Rights and Fundamental Freedoms) is an international convention to protect human rights and political freedoms in Europe.
- (3) The European Social Charter is a Council of Europe treaty that guarantees fundamental social and economic rights as a counterpart to the European Convention on Human Rights, which refers to civil and political rights.

#### 70) What is ECOSOC

Ans:

The United Nations Economic and Social Council (ECOSOC) is one of the six principal organs of the United Nations (UN), responsible for the direction and coordination of the economic, social, humanitarian, and cultural activities carried out by the UN. It is the UN's largest and most complex subsidiary body.

Most of ECOSOC's work is performed in functional commissions on topics such as human rights, narcotics, population, social development, statistics, the status of women, and science and technology. One such functional Commission was the United Nations Commission on Human Rights (UNCHR) which was a subsidiary body of ECOSOC, and which was also assisted in its work by the Office of the United Nations High Commissioner for Human Rights (UNOHCHR). In 2006, UNCHR was replaced with the UN Human Rights Council.

The UNHCR was intended to examine, monitor and publicly report on human rights situations in specific countries or territories (known as country mechanisms or mandates) as well as on major phenomena of human rights violations worldwide (known as thematic mechanisms or mandates). The Human Rights division of the U.N. is also expected to uphold and protect the Universal Declaration of Human Rights. In its role, it was responsible for preparing reports and recommendations in respect of:

- (1) International declarations and conventions on civil liberties, the status of women, freedom of information and similar matters
- (2) International Bills of Rights
- (3) The prevention of discrimination on the grounds of race, sex, language or religion.

71) What is the 'Center for Human Rights'

Ans:

The Center for Human Rights was established in Geneva to coordinate Human Rights activities. It prepared reports and publications and gave technical assistance and advisory services to various governments. In September 1997, the Center was merged with the UN High Commissioner for Human Rights.

72) What do you mean by UN Commissioner for Human Rights

Ans:

The Office of the United Nations High Commissioner for Human Rights, commonly known as the Office of the High Commissioner for Human Rights (OHCHR) or the United Nations Human Rights Office, is a department of the Secretariat of the United Nations that works to promote and protect human rights that are guaranteed under international law and stipulated in the Universal Declaration of Human Rights of 1948. The office was established by the United Nations General Assembly on 20 December 1993 in the wake of the 1993 World Conference on Human Rights.

The objectives of OHCHR are to:

- (1) Promote universal enjoyment of all human rights by giving practical effect to the will and resolve of the world community as expressed by the United Nations
- (2) Play the leading role on human rights issues and emphasize the importance of human rights at the international and national levels
- (3) Promote international cooperation for human rights
- (4) Stimulate and coordinate action for human rights throughout the United Nations system
- (5) Promote universal ratification and implementation of international standards
- (6) Assist in the development of new norms
- (7) Support human rights organs and treaty monitoring bodies
- (8) Respond to serious violations of human rights
- (9) Undertake preventive human rights action
- (10) Promote the establishment of national human rights infrastructures
- (11) Undertake human rights field activities and operations
- (12) Provide education, information advisory services and technical assistance in the field of human rights

The OHCHR has established a 24-hour hotline to monitor and react rapidly to human rights emergencies.

73) What is meant by Human Rights Hot Line

Ans:

The Human Rights Hot Line is a twenty-four-hour facsimile (fax) hotline established in 1994 by the United Nations High Commissioner for Human Rights. The hotline allows the Office of the High Commissioner for Human Rights in Geneva, Switzerland, to monitor and react rapidly to human rights emergencies. The Hot Line is available to victims of human rights violations, their relatives and non-governmental organisations. The Hot Line is especially valuable to those wishing to establish urgent, potentially life-saving contact with the Office of the High Commissioner for Human Rights. The fax number is 41-22-917-0092.

74) Write a short note on : ILO

Ans:

The International Labour Organization (ILO) is a United Nations agency whose mandate is to advance social and economic justice through setting international labour standards. Founded in October 1919 under the League of Nations, it is the first and oldest specialised agency of the UN. The ILO has 187 member states. The ILO's labour standards are aimed at ensuring accessible, productive, and sustainable work worldwide in conditions of freedom, equity, security and dignity.

The main aims of the ILO are:

- (1) To promote rights at work
- (2) To encourage decent employment opportunities
- (3) To enhance social protection
- (4) To strengthen dialogue on work-related issues.

The ILO is headed by a Director-General and functions through three principal organs viz. An International Labour Conference, a Governing Body and an International Labour Office. In the International Labour Conference of 1998, ILO adopted the Declaration on Fundamental Principles and Rights at Work which are:

- (1) The right of workers to associate freely and bargain collectively
- (2) The end of forced and compulsory labour
- (3) The end of child labour
- (4) The end of unfair discrimination among workers

In 1969, the ILO received the Nobel Peace Prize for improving fraternity and peace among nations, pursuing decent work and justice for workers, and providing technical assistance to other developing nations.

75) What is meant by ILO

Ans:

ILO stands for the International Labour Organisation) which is a United Nations agency whose mandate is to advance social and economic justice through setting international labour standards. Founded in October 1919 under the League of Nations, it is the first and oldest specialised agency of the UN. The ILO has 187 member states. It is headquartered in Geneva, Switzerland. The labour standards are aimed at ensuring accessible, productive, and sustainable work worldwide in conditions of freedom, equity, security and dignity.

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In 1969, the ILO received the Nobel Peace Prize for improving fraternity and peace among nations, pursuing decent work and justice for workers, and providing technical assistance to other developing nations.

76) What is ILO? State two objectives of ILO

Ans:

ILO stands for the International Labour Organisation) which is a United Nations agency whose mandate is to advance social and economic justice through setting international labour standards. Founded in October 1919 under the League of Nations, it is the first and oldest specialised agency of the UN. The ILO has 187 member states. It is headquartered in Geneva, Switzerland. The labour standards are aimed at ensuring accessible, productive, and sustainable work worldwide in conditions of freedom, equity, security and dignity.

The main aims of the ILO are:

- (1) To promote rights at work
- (2) To encourage decent employment opportunities
- (3) To enhance social protection
- (4) To strengthen dialogue on work-related issues.

77) Explain ILO, its Composition, Role and Functions

Ans:

ILO stands for the International Labour Organisation) which is a United Nations agency whose mandate is to advance social and economic justice through setting international labour standards. Founded in October 1919 under the League of Nations, it is the first and oldest specialised agency of the UN. The ILO has 187 member states. It is headquartered in Geneva, Switzerland. The labour standards are aimed at ensuring accessible, productive, and sustainable work worldwide in conditions of freedom, equity, security and dignity.

The ILO consists of three principal organs:

- (1) An International Labour Conference consisting of representatives of all its members
- (2) A Governing Body consisting of 56 persons
- (3) An International Labour Office controlled by the Governing Body.

The Governing Body, which is the most important functionary of the ILO, is the Executive Council of the ILO. It is composed of 28 government representatives, 14 workers' representatives, and 14 employers' representatives. The body elects one Chairman and two Vice-Chairmen one of whom must represent government, one the workers and one the employers.

The main aims of the ILO are:

- (1) To promote rights at work
- (2) To encourage decent employment opportunities
- (3) To enhance social protection
- (4) To strengthen dialogue on work-related issues.

78) Discuss the importance of environment related conventions in the improvement of global environmental conditions

Ans:

Environment related conventions are of great importance for developing consensus on environmental matters. The United Nations Conference on the Human Environment held in Stockholm, Sweden from June 5 to June 16, 1972 (referred to as the Stockholm Conference) marked a turning point in the development of international environmental policies and laid the foundation for global environmental governance. The final declaration of the Stockholm Conference was an environmental manifesto that was a forceful statement of the finite nature of Earth's resources and the necessity to safeguard them. The Stockholm Conference also led to the creation of the United Nations Environment Programme (UNEP) in December 1972 to coordinate global efforts to

promote sustainability and safeguard the natural environment. Much of India's environmental laws came about as a result of the Stockholm Conference.

The final declaration of the Stockholm Conference elucidated 26 principles concerning the environment. The conference also produced the "Framework for Environmental Action" containing 109 recommendations related to human settlements, natural-resource management, pollution etc. Of the various principles accepted at the Stockholm Declaration there was also one which said that Human Rights must be asserted; apartheid and colonialism condemned.

The UNEP's mission is to provide leadership and to encourage partnership in caring for the environment by inspiring, informing and enabling nations and people to improve their quality of life without compromising that of future generations. The UNEP's main functions are:

- (1) To assess global environmental trends
- (2) To develop international environmental instruments
- (3) To strengthen institutions for the wise management of the environment.

The Earth Summit in 1992 at Rio de Janeiro, Brazil developed a voluntary action plan named Agenda 21 which was divided into four sections as under:

- (1) Section I – Social and Economic Dimensions
- (2) Section II – Conservation and Management of Resources for Development
- (3) Section III – Strengthening the Role of Major Groups (e.g. children, women, NGOs)
- (4) Section IV – Means of Implementation

The developments which have taken place on environmental issues both internationally and nationally is a testimony to the importance of such conventions and conferences.

79) What was the main object of the Stockholm Conference

Ans:

The main object of the conference was to serve as a practical means to encourage and provide guidelines for action by Governments and international organizations designed to protect and improve the human environment. The UN General Assembly stated that the conference should endeavour to promote and advance guidelines for action by Governments and international organizations to remedy and prevent impairment of the environment, by means of international cooperation, while taking into consideration the particular importance of enabling developing countries to forestall occurrence of such problems. The idea was to take an all-encompassing view of the human environment of which Human Rights was also a significant part.

## 80) What is UNEP

Ans:

The United Nations Environment Programme (UNEP) is the leading environmental authority in the United Nations system. UNEP uses its expertise to strengthen environmental standards and practices while helping implement environmental obligations at the country, regional and global levels. UNEP's mission is to provide leadership and encourage partnership in caring for the environment by inspiring, informing, and enabling nations and peoples to improve their quality of life without compromising that of future generations.

Founded in 1972, The United Nations Environment Programme (UNEP) is an international institution that coordinates the environmental activities of the UN and assists developing countries in implementing environmentally sound policies and practices. It is the leading environmental authority in the United Nations system and uses its expertise to strengthen environmental standards and practices while helping implement environmental obligations at the country, regional and global levels. It is headquartered in Nairobi, Kenya.

The UNEP's mission is to provide leadership and to encourage partnership in caring for the environment by inspiring, informing and enabling nations and people to improve their quality of life without compromising that of future generations. The UNEP's main functions are:

- (1) To assess global environmental trends
- (2) To develop international environmental instruments
- (3) To strengthen institutions for the wise management of the environment.

## 81) Name any three functions of UNEP

Ans:

The functions of UNEP are:

- (1) To assess global environmental trends.
- (2) To develop international environmental instruments.
- (3) To strengthen institutions for the wise management of the environment.
- (4) To hold international conferences to generate awareness.
- (5) To conduct studies and publish reports on the state of the environment and help governments improve the quality of life.
- (6) To help countries by nurturing partnerships with civil society and other departments of the UN in order to achieve sustainable development.

82) What is meant by Agenda-21

Ans:

Agenda-21 is a voluntary action plan developed by the United Nations (UN) and national governments at the Earth Summit in Rio de Janeiro, Brazil in 1992. It is a non-binding implementable action plan of the UN with regard to sustainable development. It is an action agenda for the UN, other multilateral organisations and individual governments that can be executed at the local, national and global levels.

Agenda-21 presents a vision showing how all levels of government, especially in the developing world, can take voluntary action to combat poverty and pollution, conserve natural resources and develop in a sustainable manner.

Agenda 21 is a 300-page document divided into 40 chapters that have been grouped into the following four sections:

- (1) Section I – Social and Economic Dimensions
- (2) Section II – Conservation and Management of Resources for Development
- (3) Section III – Strengthening the Role of Major Groups (e.g. children, women, NGOs)
- (4) Section IV – Means of Implementation

83) Where is the permanent headquarters of UNESCO

Ans:

The United Nations Educational, Scientific and Cultural Organization (UNESCO) is a specialised agency of the United Nations (UN) aimed at promoting world peace and security through international cooperation in education, arts, sciences and culture. It has 193 member states and 11 associate members, as well as partners in the non-governmental, intergovernmental and private sector. It is headquartered at the World Heritage Centre in Paris, France.

84) What is UNESCO

Ans:

The United Nations Educational, Scientific and Cultural Organization (UNESCO) is a specialised agency of the United Nations (UN) aimed at promoting world peace and security through international cooperation in education, arts, sciences and culture. It has 193 member states and 11 associate members, as well as partners in the non-governmental, intergovernmental and private sector. It is also a member of the United Nations Development Group. It is headquartered at the World Heritage Centre in Paris, France.

UNESCO has two governing bodies i.e. the General Conference and the Executive Board. The General Conference consists of the representatives of the state members of UNESCO while the Executive Board consists of 58 members elected by the General Conference.

UNESCO's aim is to contribute to the building of peace, the eradication of poverty, sustainable development and inter-cultural dialogue through education, the sciences, culture, communication and information. The main objectives of UNESCO are:

- (1) To attain quality education for all and lifelong learning
- (2) To mobilise scientific knowledge and policy for sustainable development
- (3) To address emerging social and ethical challenges
- (4) To foster cultural diversity, inter-cultural dialogue and a culture of peace
- (5) To build inclusive knowledge societies through information and communication.

UNESCO pursues these objectives through five major programs which are:

- (1) Education
- (2) Natural Sciences
- (3) Social and Human Sciences
- (4) Culture
- (5) Communication and Information

Currently, UNESCO focuses, in particular, on two global priorities: Gender Equality and Africa. Projects sponsored by it include literacy, technical and teacher-training programmes, international science programmes, the promotion of independent media and freedom of the press, regional and cultural history projects, the promotion of cultural diversity, international cooperation agreements to secure the world cultural and natural heritage and the preservation of human rights.

85) What are the main objectives of UNESCO

Ans:

The main objectives of UNESCO are:

- (1) To attain quality education for all and lifelong learning
- (2) To mobilise scientific knowledge and policy for sustainable development
- (3) To address emerging social and ethical challenges
- (4) To foster cultural diversity, inter-cultural dialogue and a culture of peace
- (5) To build inclusive knowledge societies through information and communication.

86) Name any two important features of UNESCO

Ans:

The important features of UNESCO are:

- (1) It is a specialised agency of the United Nations (UN) aimed at promoting world peace and security through international cooperation in education, arts, sciences and culture.
- (2) It has two governing bodies i.e. the General Conference and the Executive Board. The General Conference consists of the representatives of the state members of UNESCO while the Executive Board consists of 58 members elected by the General Conference.
- (3) Its aim is to contribute to the building of peace, the eradication of poverty, sustainable development and inter-cultural dialogue through education, the sciences, culture, communication and information.

87) Write a short note on : UNESCO

Ans:

The United Nations Educational, Scientific and Cultural Organization (UNESCO) is a specialised agency of the United Nations (UN) aimed at promoting world peace and security through international cooperation in education, arts, sciences and culture.

UNESCO has two governing bodies i.e. the General Conference and the Executive Board and its aim is to contribute to the building of peace, the eradication of poverty, sustainable development and inter-cultural dialogue through education, the sciences, culture, communication and information.

Currently, UNESCO focuses, in particular, on two global priorities: Gender Equality and Africa. Projects sponsored by it include literacy, technical and teacher-training programmes, international science programmes, the promotion of independent media and freedom of the press, regional and cultural history projects, the promotion of cultural diversity, international cooperation agreements to secure the world cultural and natural heritage and the preservation of human rights.

88) What is meant by UNICEF

Ans:

UNICEF, in full originally called the United Nations International Children's Emergency Fund, now officially United Nations Children's Fund, is an agency of the United Nations responsible for providing humanitarian and developmental aid to children worldwide. Its activities include providing immunizations and disease prevention, administering treatment for children and mothers with HIV, enhancing childhood and maternal nutrition, improving sanitation, promoting education, and providing emergency relief in response to disasters. It was created on December 11, 1946 and is headquartered in New

York, USA. The governing body of the UNICEF is the Executive Board. UNICEF relies on contributions from governments and private donors.

UNICEF's mission is:

- (1) To advocate for the protection of children's rights, help meet their basic needs and expand their opportunities to reach their full potential
- (2) To mobilize political will and material resources to help countries
- (3) To respond in emergencies to relieve the suffering of children and those who provide their care
- (4) To promote equal rights for women and girls and support their full participation in the development of their communities
- (5) To work towards human development goals, and the peace and social progress enshrined in the UN charter.

The core areas of UNICEF's work are:

- (1) HIV/AIDS
- (2) Children
- (3) Child Survival and Development
- (4) Child Protection
- (5) Basic Education and Gender Equality
- (6) Policy Advocacy and Partnership.

89) What is the object of UNICEF

Ans:

The main object of UNICEF is to provide long-term humanitarian and developmental assistance to children and mothers in developing countries. Towards this end, its efforts are directed towards general programs for the improvement of children's welfare, particularly in less developed countries and in various emergency situations.

UNICEF's mission is:

- (1) To advocate for the protection of children's rights, help meet their basic needs and expand their opportunities to reach their full potential
- (2) To mobilize political will and material resources to help countries
- (3) To respond in emergencies to relieve the suffering of children and those who provide their care
- (4) To promote equal rights for women and girls and support their full participation in the development of their communities
- (5) To work towards human development goals, and the peace and social progress enshrined in the UN charter.

90) Write a short note on : UNICEF

Ans: See answer to Q 88 on page 53

91) Explain UNICEF

Ans: See answer to Q 88 on page 53

92) What is UNDP

Ans:

The United Nations Development Programme (UNDP) is a United Nations organization tasked with helping countries eliminate poverty and achieve sustainable economic growth and human development. Headquartered in New York City, it is the largest UN development aid agency. UNDP is governed by a 36-member executive board overseen by an Administrator, who is third-highest ranking UN official after the Secretary-General and Deputy Secretary-General.

The UNDP emphasizes developing local capacity towards long-term self-sufficiency and prosperity. It assists its partners to achieve sustainable, people-centric development through an integrated approach that links policy with planning and programming, for promoting results based management, formulating quality safeguards and learning equally from failures and successes.

To encourage global development, UNDP focuses on poverty reduction, HIV/AIDS, democratic governance, energy and environment, social development and crisis prevention and recovery. UNDP also encourages the protection of human rights and the empowerment of women in all its programmes.

UNDP focuses on helping countries build and share solutions in three main areas:

- (1) Sustainable Development
- (2) Democratic Governance and Peace-Building
- (3) Climate and Disaster Resilience.

93) Write an essay on : Human Rights and Women

Ans:

The Charter of the United Nations guarantees equal rights of women and men. All major international human rights instruments stipulate ending discrimination on the basis of sex. Almost all countries have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), described as the women's international bill of rights. The Beijing Declaration and Platform for Action confirms that protection and promotion of human rights is the first responsibility of governments and core to the work of the United Nations. The Platform for Action firmly anchors the achievement of gender equality within a human rights framework and makes a clear statement about State responsibility in delivering on the commitments made. Yet serious gaps and violations remain in every region of the world today and progress has been unacceptably slow, particularly for the most marginalized women and girls.

In the Indian context, various provisions of the Constitution reflect the ideal of gender equality. Article 14 guarantees equality to all i.e. men and women. Article 15 ensures that the State cannot discriminate against any citizen, inter alia, on the grounds of sex. To give further momentum to the cause of equality in the historical background of discrimination in society, in 1992 the Constitution was amended to provide for reservation of seats for women in Panchayats and Municipalities. Article 51A casts a Fundamental Duty on every citizen to renounce practices which are derogatory to the dignity of women. There are also several Directive Principles of State Policy which aim to bring about equality between men and women. For instance, the Directive Principles enshrined in Article 39 seeking equal pay for equal work; in Article 42 for maternity relief etc.

Courts have also been very pro-active in promoting such equality as evident from multiple Court decisions. In **C. B. Muthamma v. Union of India (AIR 1979 SC 1868)**, the Supreme Court held that a provision in the Indian Foreign Service Rules requiring a woman officer to seek permission before marriage was discriminatory. In **Air India v. Nergesh Meerza (AIR 1981 SC 1829)**, the apex Court struck down an Air India rule in which an Air-Hostess's services could be terminated on pregnancy. In **Madhu Kishwar v. State of Bihar (AIR 1996 SC 2178)**, the Supreme Court took cognizance of international conventions and observed that since India has ratified the CEDAW. A duty is cast on the country to honour the obligations imposed by the Convention.

Notwithstanding international and local efforts to bring about equality, discrimination in the law persists in many countries. Women do not participate on an equal footing with men in politics. They face blatant discrimination in labour markets and access to economic assets. The many forms of violence directed explicitly towards women and girls deny them their rights and all too often their lives. Unacceptably high levels of maternal mortality continue in some regions. Unpaid care workloads continue to limit women's enjoyment of their rights.

94) How does the Constitution of India safeguard the rights and interests of women

Ans:

In the Constitution of India, rights and interests are aimed to be protected through Fundamental Rights, Fundamental Duties and through the Directive Principles of State Policy.

Article 14 guarantees equality to all i.e. men and women. Article 15 ensures that the State cannot discriminate against any citizen, inter alia, on the grounds of sex. To give further momentum to the cause of equality in the historical background of discrimination in society, in 1992 the Constitution was amended to provide for reservation of seats for women in Panchayats and Municipalities. Article 51A casts a Fundamental Duty on every citizen to renounce practices which are derogatory to the dignity of women. There are also several Directive Principles of State Policy which aim to bring about equality between men and women. For instance, the Directive Principles enshrined in Article 39 seeking equal pay for equal work; in Article 42 for maternity relief etc.

95) Discuss, with case laws, the fundamental rights of women under the Constitution of India

Ans:

In the Constitution of India, rights and interests are aimed to be protected through Fundamental Rights, Fundamental Duties and through the Directive Principles of State Policy.

Article 14 guarantees equality to all i.e. men and women. Article 15 ensures that the State cannot discriminate against any citizen, inter alia, on the grounds of sex. To give further momentum to the cause of equality in the historical background of discrimination in society, in 1992 the Constitution was amended to provide for reservation of seats for women in Panchayats and Municipalities. Article 51A casts a Fundamental Duty on every citizen to renounce practices which are derogatory to the dignity of women. There are also several Directive Principles of State Policy which aim to bring about equality between men and women. For instance, the Directive Principles enshrined in Article 39 seeking equal pay for equal work; in Article 42 for maternity relief etc.

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which an Air-Hostess's services could be terminated on pregnancy. In **Madhu Kishwar v. State of Bihar (AIR 1996 SC 2178)**, the Supreme Court took cognizance of international conventions and observed that since India has ratified the CEDAW. A duty is cast on the country to honour the obligations imposed by the Convention

96) Explain the Principle of 'Equal Pay for Equal Work' enshrined in the Constitution of India

Ans:

As part of its Directive Principles of State Policy, the Constitution of India through Article 39 envisages that all states ideally direct their policy towards securing equal pay for equal work for both men and women, and also ensuring that men and women have the right to an adequate means of livelihood. While these Directive Principles are not enforceable by any court of law, they are crucial to the governance of the country and a state is duty bound to consider them while enacting laws.

While "equal pay for equal work" is not expressly a constitutional right, it has been read into the Constitution through the interpretation of Articles 14, 15 and 16 – which guarantee equality before the law, protection against discrimination and equality of opportunity in matters of public employment. The Supreme Court of India has also declared this to be a constitutional goal, available to every individual and capable of being attained through the enforcement of their fundamental rights set out in Articles 14 through 16. In **Air India v. Nergesh Meerza (AIR 1981 SC 1829)**, the conditions of employment of the Air-Hostesses of Air India was challenged. The terms of employment required the mandatory retirement of females: (i) upon attaining the age of 33; (ii) if they were married within four years of service; or (iii) upon their first pregnancy. The Supreme Court however struck down these provisions and held them to be arbitrary and discriminatory as it violated Articles 14, 15 and 16 of the Constitution.

97) Name two landmark judgment on the rights of women

Ans:

Some landmark judgments on the rights of women are as under:

- (1) In **C. B. Muthamma v. Union of India (AIR 1979 SC 1868)**, the Supreme Court held that a provision in the Indian Foreign Service Rules requiring a woman officer to seek permission before marriage was discriminatory.
- (2) In **Air India v. Nergesh Meerza (AIR 1981 SC 1829)**, the conditions of employment of the Air-Hostesses of Air India was challenged. The terms of employment required the mandatory retirement of females: (i) upon attaining the age of 33; (ii) if they were married within four years of service; or (iii) upon their first pregnancy. The Supreme

Court however struck down these provisions and held them to be arbitrary and discriminatory as it violated Articles 14, 15 and 16 of the Constitution.

- (3) In **Anuj Garg v. Hotel Association of India (AIR 2008 SC 663)**, Section 30 of the Punjab Excise Act, which prohibited employment of women in a premise where liquor was consumed (e.g. Bar), the Supreme court upheld and reaffirmed the Delhi High court decision that this provision was violative of Article 19 (1) (g), Article 14 and Article 15 of the Constitution.
- (4) In **Maya Devi v. State of Maharashtra (1986 1 SCR 743)**, a requirement that a married woman required the consent of her husband before applying for public employment was struck down as unconstitutional.

98) State the important provisions laid down in the Constitution of India for enhancing the position of women in India. Explain with the help of landmark judgments of the Supreme Court of India

Ans: See answer to Q 95 on pages 57-58

99) Discuss the development of law concerning prevention of sexual harassment at the workplace in India with reference to the Vishaka case and subsequent legislation on this subject

Ans:

Prior to 2013, there was no specific law which addressed the issue of sexual harassment at the workplace. It took a serious gangrape case against a social worker in Rajasthan for the Court to step in where the legislature had was found wanting.

In the landmark case referred to above, that is the case of **Vishakha v. State of Rajasthan (AIR 1997 SC 3011)**, the Supreme Court declared sexual harassment of a working woman at her work as amounting to the violation of right of gender equality and hence the rights under Articles 14, 15 and 21, which includes the rights to life and liberty. In the landmark judgment, the Supreme Court laid down guidelines. It took the legislature thirteen long years fill this vacuum in law to introduce a bill in 2010, which culminated in the enactment of THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013. The Act incorporates almost the entire guidelines issued by the Supreme Court. In Apparel Export Promotion Council v. A. K. Chopra<sup>12</sup>, the Supreme Court reiterated the Vishakha ruling and observed “there is no gainsaying that each incident of sexual harassment, at the place of work, results in the violation of the Fundamental Right to Gender Equality and the Right to Life and Liberty the two most precious Fundamental Rights guaranteed by the Constitution of India....”.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, heralds a new beginning in securing protection of working women from sexual harassment at the workplace. Among other things, the Act stipulates the constitution of an Internal Complaints Committee to deal with complaints of Sexual harassment.

100) Write a short note on : National Commission for Women

Ans:

The National Commission for Women (NCW) is a statutory body set up in January 1992 pursuant to the provisions of the National Commission for Women Act, 1990 with a view to:

- (1) Review the Constitutional and Legal safeguards for women
- (2) Recommend remedial legislative measures
- (3) Facilitate redressal of grievances
- (4) Advise the government on all policy matters affecting women.

Under Section 3 of the Act, the Commission consists of:

- (a) A Chairperson, committed to the cause of women, nominated by the Central Government
- (b) 5 members to be nominated by the Central Government from amongst persons of ability, integrity and standing with experience in law or legislation, trade unionism, management of industry or organisation committed to increasing the employment potential of women or women's voluntary organisations. At least one member should be belonging to the Scheduled Castes and one belonging to the Scheduled Tribes.
- (c) A Member-Secretary to be nominated by the Central Government who must be an expert in management, organisational structure or sociological movement or a member of of an all-India service.

The functions of the Commission are set out under Section 10 of the Act. When investigating any matter the Commission has all the powers of a Civil Court trying a suit.

101) Discuss the composition of the Commission for Women in India and its function

Ans:

Under Section 3 of the Act, the Commission consists of:

- (a) A Chairperson, committed to the cause of women, nominated by the Central Government

- (b) 5 members to be nominated by the Central Government from amongst persons of ability, integrity and standing with experience in law or legislation, trade unionism, management of industry or organisation committed to increasing the employment potential of women or women's voluntary organisations. At least one member should be belonging to the Scheduled Castes and one belonging to the Scheduled Tribes.
- (c) A Member-Secretary to be nominated by the Central Government who must be an expert in management, organisational structure or sociological movement or a member of of an all-India service.

The functions of the Commission as set out under Section 10 are as under:

- (a) investigate and examine all matters relating to the safeguards provided for women under the Constitution and other law;
- (b) present to the Central Government, reports upon the working of those safeguards;
- (c) make in the reports, recommendations for the effective implementation of those safeguards for improving the conditions of women;
- (d) review, from time to time, existing provisions of the Constitution and other laws affecting women and recommend amendments;
- (e) take up the cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities;
- (f) look into complaints and take suo moto notice of matters relating to—
  - (i) deprivation of women's rights;
  - (ii) non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;
  - (iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities;
- (g) call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;
- (h) undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement;
- (i) participate and advise on the planning process of socio-economic development of women;
- (j) evaluate the progress of the development of women;
- (k) inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, if found necessary;
- (l) fund litigation involving issues affecting a large body of women;
- (m) make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;
- (n) any other matter which may be referred to it by the Central Government.

102) Write two important functions of NCW

Ans:

Some of the important functions of the NCW are:

- (1) Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other law
- (2) Review, from time to time, existing provisions of the Constitution and other laws affecting women and recommend amendments
- (3) take up the cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities
- (4) Look into complaints and take suo moto notice of matters relating to—
  - (i) deprivation of women's rights;
  - (ii) non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;
  - (iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities
- (5) Call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal
- (6) Inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, if found necessary

103) Discuss the role of the NCW in the upliftment of women's rights in India

Ans:

The NCW has a very critical role to play in the upliftment of women's rights in India both on a pro-active and a reactive basis as is evident from its functions. Its mission is to strive towards enabling women to achieve equality and equal participation in all spheres of life by securing her due rights and entitlements through suitable policy formulation, legislative measures, etc.

Its functions include:

- (1) Review the constitutional and legal safeguards for women.
- (2) Recommend remedial legislative measures.
- (3) Facilitate redressal of grievances.
- (4) Advise the Government on all policy matters affecting women.

It has received a large number of complaints and acted suo-moto in several cases to provide speedy justice.

It took up the issue of child marriage, sponsored legal awareness programmes, Parivarik Mahila Lok Adalats and reviewed laws such as the Dowry Prohibition Act, 1961, the Pre-Conception and Pre-Natal Diagnostic Techniques Act 1994, Indian Penal Code 1860.

104) What is CEDAW

Ans:

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations General Assembly. Described as the Magna Carta of Women's Rights or the International Bill of Rights for Women, it was instituted on September 3, 1981. The CEDAW seeks to abolish all forms of discrimination against women and thus usher in an era of true gender equality.

The main objectives of CEDAW are:

- (1) To establish the principle of equality between men and women
- (2) To abolish all discriminatory laws
- (3) To adopt appropriate laws prohibiting discrimination against women
- (4) To establish tribunals and other institutions to ensure the effective protection of women against all kinds of discrimination
- (5) To end all acts of discrimination against women by persons, organisations and enterprises.

The convention is structured in six parts with 30 articles as under:

- (1) Part I (Articles 1–6) focuses on non-discrimination, sex stereotypes, and sex trafficking.
- (2) Part II (Articles 7–9) outlines women's rights in the public sphere with an emphasis on political life, representation, and rights to nationality.
- (3) Part III (Articles 10–14) describes the economic and social rights of women, particularly focusing on education, employment, and health. Part III also includes special protections for rural women and the problems they face.
- (4) Part IV (Article 15 and 16) outlines women's right to equality in marriage and family life along with the right to equality before the law.
- (5) Part V (Articles 17–22) establishes the Committee on the Elimination of Discrimination against Women as well as the states parties' reporting procedure.
- (6) Part VI (Articles 23–30) describes the effects of the convention on other treaties, the commitment of the state parties and the administration of the convention.

**The Core Provisions of CEDAW are:**

**(1) Article 1 defines discrimination against women in the following terms:**

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

- (2) Article 2 mandates that states parties ratifying the Convention declare intent to enshrine gender equality into their domestic legislation, repeal all discriminatory provisions in their laws, and enact new provisions to guard against discrimination against women. States ratifying the Convention must also establish tribunals and public institutions to guarantee women effective protection against discrimination, and take steps to eliminate all forms of discrimination practiced against women by individuals, organizations, and enterprises.
- (3) Article 3 requires states parties to guarantee basic human rights and fundamental freedoms to women "on a basis of equality with men" through the "political, social, economic, and cultural fields."
- (4) Article 4 notes that "adoption...of special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination." It adds that special protection for maternity is not regarded as gender discrimination.
- (5) Article 5 requires states parties to take measures to seek to eliminate prejudices and customs based on the idea of the inferiority or the superiority of one sex or on stereotyped role for men and women. It also mandates the states parties "to ensure...the recognition of the common responsibility of men and women in the upbringing and development of their children."
- (6) Article 6 obliges states parties to "take all appropriate measures, including legislation, to suppress all forms of trafficking in women and exploitation of prostitution of women".
- (7) Article 7 guarantees women equality in political and public life with a focus on equality in voting, participation in government, and participation in "non-governmental organizations and associations concerned with the public and political life of the country."
- (8) Article 8 provides that states parties will guarantee women's equal "opportunity to represent their Government at the international level and to participate in the work of international organizations."
- (9) Article 9 mandates state parties to "grant women equal rights with men to acquire, change or retain their nationality" and equal rights "with respect to the nationality of their children".
- (10) Article 10 mandates equal opportunity in education for female students and encourages coeducation. It also provides equal access to athletics, scholarships and grants as well as requires "reduction in female students' drop-out rates."
- (11) Article 11 outlines the right to work for women as "an unalienable right of all human beings." It requires equal pay for equal work, the right to social security, paid leave and maternity leave "with pay or with comparable social benefits without loss of

- former employment, seniority or social allowances." Dismissal on the grounds of maternity, pregnancy or status of marriage shall be prohibited with sanction.
- (12) Article 12 creates the obligation of states parties to "take all appropriate measures to eliminate discrimination against women in the field of healthcare in order to ensure...access to health care services, including those related to family planning."
- (13) Article 13 guarantees equality to women "in economic and social life," especially with respect to "the right to family benefits, the right to bank loans, mortgages and other forms of financial credit, and the right to participate in recreational activities, sports and all aspects of cultural life."
- (14) Article 14 provides protections for rural women and their special problems, ensuring the right of women to participate in development programs, "to have access to adequate health care facilities," "to participate in all community activities," "to have access to agricultural credit" and "to enjoy adequate living conditions."
- (15) Article 15 obliges states parties to guarantee "women equality with men before the law," including "a legal capacity identical to that of men." It also accords "to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile."
- (16) Article 16 prohibits "discrimination against women in all matters relating to marriage and family relations." In particular, it provides men and women with "the same right to enter into marriage, the same right freely to choose a spouse," "the same rights and responsibilities during marriage and at its dissolution," "the same rights and responsibilities as parents," "the same rights to decide freely and responsibly on the number and spacing of their children," "the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation" "the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration."
- (17) Articles 17 – 24 describe the composition and procedures of the CEDAW Committee, like the hierarchical structure and rules and regulations of systematic procedure of the relationship between CEDAW and national and international legislation and the obligation of States to take all steps necessary to implement CEDAW in full form.
- (18) Articles 25 – 30 describe the general administrative procedures concerning enforcement of CEDAW, ratification and entering reservations of concerned states.

105) What are the salient features of CEDAW? Explain in detail

Ans: See answer to Q 104 immediately preceding above.

106) What is Magna Carta

Ans:

The Magna Carta was a charter of rights agreed to by King John of England in 1215. Prior to the implementation of the Magna Carta, English monarchs were considered above the law of the land and ruled with relatively absolute power. Magna Carta established the principle that everyone is subject to the law, even the king, and guarantees the rights of individuals, the right to justice and the right to a fair trial.

Over time, the term “Magna Carta” has come to be used to mean a document constituting a fundamental guarantee of rights and privileges. Thus, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) is often described as the Magna Carta of Women’s Rights. The CEDAW seeks to abolish all forms of discrimination against women and thus usher in an era of true gender equality.

107) Write a short note on : CEDAW

Ans:

The **Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)** is an international treaty adopted in 1979 by the United Nations General Assembly. Described as the Magna Carta of Women’s Rights or the International Bill of Rights for Women, it was instituted on September 3, 1981. The CEDAW seeks to abolish all forms of discrimination against women and thus usher in an era of true gender equality.

The main objectives of CEDAW are:

- (1) To establish the principle of equality between men and women
- (2) To abolish all discriminatory laws
- (3) To adopt appropriate laws prohibiting discrimination against women
- (4) To establish tribunals and other institutions to ensure the effective protection of women against all kinds of discrimination
- (5) To end all acts of discrimination against women by persons, organisations and enterprises.

108) What are the three main objects of CEDAW

Ans:

The main objects of CEDAW are:

- (1) To establish the principle of equality between men and women
- (2) To abolish all discriminatory laws

- (3) To adopt appropriate laws prohibiting discrimination against women
- (4) To establish tribunals and other institutions to ensure the effective protection of women against all kinds of discrimination
- (5) To end all acts of discrimination against women by persons, organisations and enterprises.

109) CEDAW is considered as the Magna Carta of women's rights. Explain the various provisions of CEDAW

Ans:

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) is described as the Magna Carta of Women's Rights since it is for the first time that a comprehensive document, seeking to abolish all forms of discrimination against women and usher in an era of true gender equality, was put in place.

The main objectives of CEDAW are:

- (6) To establish the principle of equality between men and women
- (7) To abolish all discriminatory laws
- (8) To adopt appropriate laws prohibiting discrimination against women
- (9) To establish tribunals and other institutions to ensure the effective protection of women against all kinds of discrimination
- (10) To end all acts of discrimination against women by persons, organisations and enterprises.

The convention is structured in six parts with 30 Articles as under:

- (7) Part I (Articles 1–6) focuses on non-discrimination, sex stereotypes, and sex trafficking.
- (8) Part II (Articles 7–9) outlines women's rights in the public sphere with an emphasis on political life, representation, and rights to nationality.
- (9) Part III (Articles 10–14) describes the economic and social rights of women, particularly focusing on education, employment, and health. Part III also includes special protections for rural women and the problems they face.
- (10) Part IV (Article 15 and 16) outlines women's right to equality in marriage and family life along with the right to equality before the law.
- (11) Part V (Articles 17–22) establishes the Committee on the Elimination of Discrimination against Women as well as the states parties' reporting procedure.
- (12) Part VI (Articles 23–30) describes the effects of the convention on other treaties, the commitment of the state parties and the administration of the convention.

110) Give two important provisions of the Constitution of India relating to rights of children

Ans:

There are several provisions in the Indian Constitution which protect the rights of children. They are included in the Fundamental Rights, the Directive Principles and the Fundamental Duties. The Fundamental Rights under Chapter III of the Constitution especially targeted towards rights of children are:

- (1) Article 15 which prohibits any kind of discrimination specifically empowers the State to make special provisions for women and children,
- (2) Article 21A provides that the State shall provide free and compulsory education to all children between the ages of 6 and 14 years.
- (3) Article 23 prohibits trafficking in human beings, begar and other forms of forced labour.
- (4) Article 24 prohibits the employment of children, below 14 years of age, in factories or mines or any hazardous work.

The Directive Principles focused on children include:

- (1) Article 39 states that the State should direct its policy to secure (i) that the tender age of children are not abused (Article 39 (e)) and that childhood and youth are protected against exploitation and moral and material abandonment (Article 39 (f))
- (2) Article 45 says that the State should endeavour to provide early childhood care and education for all children until they complete the age of 6 years.

The Fundamental Duty under Article 51A (k) provides that anyone who is a parent or guardian should provide opportunities for education to his child or ward between the age of 6 and 14 years of age.

111) Explain the fundamental rights and directive principles relating to protection of child rights

Ans:

The Fundamental Rights under Chapter III of the Constitution especially targeted towards rights of children are:

- (1) Article 15 which prohibits any kind of discrimination specifically empowers the State to make special provisions for women and children,
- (2) Article 21A provides that the State shall provide free and compulsory education to all children between the ages of 6 and 14 years.
- (3) Article 23 prohibits trafficking in human beings, begar and other forms of forced labour.

- (4) Article 24 prohibits the employment of children, below 14 years of age, in factories or mines or any hazardous work.

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- (2) Article 45 says that the State should endeavour to provide early childhood care and education for all children until they complete the age of 6 years.

112) Name two objects of the National Commission for the Child

Ans:

The objects of the National Commission for Protection of Child Rights are:

- (1) To ensure that all laws, policies, programmes and administrative mechanisms are in consonance with the perspective of child rights as enshrined in the Constitution of India and the UN Convention on the Rights of the Child.
- (2) Examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation.

113) Name two functions of the National Commission for the Child

Ans:

The functions of the National Commission for Protection of Child Rights, as enshrined in Section 13 of The Commission for Protection of Child Rights Act, 2005, are:

- (a) examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation;
- (b) present to the Central Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards;
- (c) inquire into violation of child rights and recommend initiation of proceedings in such cases;
- (d) examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures;
- (e) look into the matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in

conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures;

- (f) study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on child rights and make recommendations for their effective implementation in the best interest of children;
- (g) undertake and promote research in the field of child rights;
- (h) spread child rights literacy among various sections of the society and promote awareness of the safeguards available for protection of these rights through publications, the media, seminars and other available means;
- (i) inspect or cause to be inspected any juvenile custodial home, or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority, including any institution run by a social organisation; where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary;
- (j) inquire into complaints and take suo motu notice of matters relating to –
  - (i) deprivation and violation of child rights;
  - (ii) non-implementation of laws providing for protection and development of children;
  - (iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children, or take up the issues arising out of such matters with appropriate authorities; and
- (k) such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

114) Write a short note on : Convention on the Rights of the Child

Ans:

The United Nations Convention on the Rights of the Child (commonly abbreviated as the CRC or UNCRC) is an international human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children. The Convention defines a child as any human being under the age of eighteen, unless the age of majority is attained earlier under national legislation. The Convention was adopted on November 20, 1989 and came into force on September 2, 1990. Some of the features of the Convention are as under:

- (1) The Convention deals with child-specific needs and rights and that, ratifying states must act in the best interests of the child.
- (2) It requires compliance with child custody and guardianship laws as every child has basic rights, including the right to life, to their own name and identity, to be raised by their parents within a family or cultural grouping, and to have a relationship with both parents, even if they are separated.

- (3) The Convention obliges states to allow parents to exercise their parental responsibilities.
- (4) The Convention also obliges states to separate legal representation for a child in any judicial dispute concerning their care and asks for obtaining that the child's viewpoint.
- (5) The Convention forbids capital punishment for children.

115) What are the rights of children as per the convention on Rights of Child?  
Discuss

Ans:

The Convention on Rights of Child identify the following rights of a child:

- (1) The inherent right to life.
- (2) The right to survival and development.
- (3) The right against discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability etc.
- (4) The right for help from the Government if they are poor or in need.
- (5) The right to a standard of living that is good enough to meet their physical and mental needs. The Government should help their families, if they cannot afford to provide this.
- (6) The right to Education.
- (7) The right to freedom of expression, including the freedom to seek, receive and impart information.
- (8) The right against sexual exploitation and sexual abuse.
- (9) The right to relax, play and join in a wide range of cultural and extra-curricular activities.

116) Write a short note on : Rights of the Children in the Indian Constitution

Ans:

There are several provisions in the Indian Constitution which protect the rights of children. They are included in the Fundamental Rights, the Directive Principles and the Fundamental Duties. The Fundamental Rights under Chapter III of the Constitution especially targeted towards rights of children are:

- (5) Article 15 which prohibits any kind of discrimination specifically empowers the State to make special provisions for women and children,
- (6) Article 21A provides that the State shall provide free and compulsory education to all children between the ages of 6 and 14 years.
- (7) Article 23 prohibits trafficking in human beings, begar and other forms of forced labour.

(8) Article 24 prohibits the employment of children, below 14 years of age, in factories or mines or any hazardous work.

The Directive Principles focused on children include:

(3) Article 39 states that the State should direct its policy to secure (i) that the tender age of children are not abused (Article 39 (e)) and that childhood and youth are protected against exploitation and moral and material abandonment (Article 39 (f))

(4) Article 45 says that the State should endeavour to provide early childhood care and education for all children until they complete the age of 6 years.

The Fundamental Duty under Article 51A (k) provides that anyone who is a parent or guardian should provide opportunities for education to his child or ward between the age of 6 and 14 years of age.

117) Define 'child' as defined in the Convention on the Rights of the Child, 1989

Ans:

The Convention on the Rights of the Child, 1989, The Convention defines a child as any human being under the age of eighteen, unless the age of majority is attained earlier under national legislation.

118) What are the salient features of the Convention on the Rights of the Child, 1989

Ans: See answer to Q 114 on pages 70-71

119) What are the objects of the International Convention on the rights of the child

Ans:

The objects of the Convention on the Rights of the Child are:

- (1) To protect the rights of all children in the world.
- (2) To address child specific needs and bring out the rights of the child
- (3) To protect and promote the rights of children with special needs, minority children and of refugee children.
- (4) To ensure non-discrimination of the child.
- (5) To secure the best interest of the child.
- (6) To secure the child's right to life, survival and development
- (7) To respect views of the child
- (8) To protect the child from sexual exploitation and sexual abuse.

(9) To prohibit corporal/capital punishment on a child.

120) What is the status of human rights of children in India? Explain with reference to CRC provisions, constitutional provisions and important case laws

Ans:

Though India is taking giant strides towards socio-economic development, various social and cultural factors coupled with economic deprivation has still posed challenges in the full development of human rights of children. Child labour, often a result of family circumstances, child trafficking, abuse and sexual exploitation is not uncommon.

However, India has enacted several laws to protect the rights of children. The Fundamental Rights under Chapter III of the Constitution especially targeted towards rights of children are:

- (1) Article 15 which prohibits any kind of discrimination specifically empowers the State to make special provisions for women and children,
- (2) Article 21A provides that the State shall provide free and compulsory education to all children between the ages of 6 and 14 years.
- (3) Article 23 prohibits trafficking in human beings, begar and other forms of forced labour.
- (4) Article 24 prohibits the employment of children, below 14 years of age, in factories or mines or any hazardous work.

The Directive Principles focused on children include:

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- (6) Article 45 says that the State should endeavour to provide early childhood care and education for all children until they complete the age of 6 years.

The Fundamental Duty under Article 51A (k) provides that anyone who is a parent or guardian should provide opportunities for education to his child or ward between the age of 6 and 14 years of age.

Courts have been pro-active in ensuring the rights of children. In **People's Union for Democratic Rights v. Union of India (AIR 1983 SC 1473)**, the Supreme Court held that construction activity is a hazardous activity in which a child below 14 years of age cannot be employed. In **M. C. Mehta v. State of Tamil Nadu (AIR 1997 SC 699)**, which dealt with the issue of child labour being used in the Sivakasi firecracker industry, the Supreme Court while holding the industry to be a hazardous one, issued guidelines directed towards several industries like the match industry, the diamond polishing industry, the glass industry and the lock industry.

India is a signatory to the Convention on the Rights of the Child (CRC). While India's constitution and other existing laws do have provisions which meet or address the requirements of the convention such as IPC, Hindu Marriage Act, The Hindu Adoption and Maintenance Act etc., there are several laws, regulations, plans and schemes which came into force after the CRC. These include:

- (1) The Juvenile Justice (Care and Protection of Children) Act, 2015
- (2) The Child Labour (Prohibition and Regulation) Amendment Act, 2016
- (3) The Protection of Children from Sexual Offences Act, 2012
- (4) The Maternity Benefit Amendment Act, 2017
- (5) The Right of Children to Free and Compulsory Education Act, 2009
- (6) The National Food Security Act, 2013
- (7) National Early Childhood Care and Education Policy, 2013
- (8) National Plan of Action For Children, 2016
- (9) Integrated Child Development Services (ICDS) Scheme

121) Write an essay on : Human Rights and Child abuse

Ans:

There are numerous ways in which child abuse can be clearly seen as a violation of human rights. Article 18 of the Universal Declaration of Human Rights states that "everyone has the right to freedom of thought, conscience and religion," and Article 25 states that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family." How can someone utilize these rights while living in fear (whether it be as an adult or as a child)?

The Convention on the Rights of the Child also deals with child abuse as a violation of human rights. Article 19 calls for States Parties to "take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation...". Article 24 states that children have the right to "the highest attainable standard of health," which is a right that cannot be fully enjoyed in an abusive situation. Article 27 describes the right "to a standard of living adequate for the child's physical, mental, spiritual, moral, and social development," and abuse is a known hindrance to childhood development. Article 34 relates specifically to sexual abuse, stating that States Parties should do everything they can to "protect the child from all forms of sexual exploitation and sexual abuse."

In India, child abuse has been seen in many forms such as sexual abuse, child neglect, child marriage and child labour despite provisions in the Constitution and other laws which protect the right of children. But India has come a long way from where it stood a couple of decades ago and the will of the state in enacting specific laws and setting up institutions and mechanisms for their implementation have facilitated the government's

efforts. New legislations include The Juvenile Justice (Care and Protection of Children) Act, 2015, The Child Labour (Prohibition and Regulation) Amendment Act, 2016, The Protection of Children from Sexual Offences Act, 2012, The Right of Children to Free and Compulsory Education Act, 2009 etc.

122) Write a short note on: Human Rights and Child abuse

Ans: See answer to Q 121 immediately preceding above.

123) What is meant by Child Labour

Ans:

The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that:

- (1) is mentally, physically, socially or morally dangerous and harmful to children; and/or
- (2) interferes with their schooling by: depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work.

The International Labour Organization has defined Child Labour as a form of Child Abuse though it qualifies by saying that not all work done by children should be classified as child labour. Whether or not particular forms of “work” can be called “child labour” depends on the child’s age, the type and hours of work performed, the conditions under which it is performed and the objectives pursued by individual countries. The answer varies from country to country, as well as among sectors within countries.

The worst forms of child labour involves children being enslaved, separated from their families, exposed to serious hazards and illnesses and/or left to fend for themselves on the streets of large cities – often at a very early age.

124) Write a short note on: Human Rights of prisoners and the Indian Constitution

Ans:

While prisoners lose some of the fundamental rights because of their confinement, it is undeniable that as human beings they are entitled to all the other basic rights available to anyone else. Article 39 of the Constitution, inter alia, imposes a mandate on the State to provide free legal aid to ensure that opportunities for serving justice are not denied to any citizen. Courts have stepped in and have on numerous occasions read into the rights of

prisoners the right to life and personal liberty under Article 21 and other fundamental right guaranteed under the Constitution.

The Right to Free Legal Aid was considered as a to Right to Liberty in **M. H. Hoskot v. State of Maharashtra (AIR 1978 SC 1548)** and in **Hussainara Khatoon v. State of Bihar (AIR 1979 SC 1369)**. In the second case, the Court also emphasized the Right to a Speedy Trial and held that a procedure which keeps people behind bars for too long, without trial, is violative of Article 21.

Similarly, the Supreme Court has also upheld the Right Against Inhuman Treatment, Handcuffs and Fetters. In **Kishore Singh v. state of Rajasthan (AIR 1981 SC 625)**, the Court held that use of third degree methods were violative of Article 21. In **Prem Shankar Shukla v. Delhi Administration (AIR 1966 SC 2957)**, the Court held that the minimum freedom of movement which a detainee is entitled to under Article 19, cannot be cut down by the application of handcuffs. In the same case, the Court also held that narco-analysis, brain-mapping and polygraph tests were violative of Article 20 (3) which prohibits the compelling of and accused to give evidence against himself. In **Sunil Batra v. Delhi Administration (AIR 1978 SC 1675)**, the Court held that keeping a prisoner continuously in fetters was against the spirit of the Indian Constitution.

In **Francis Coralie Mullin v. The Administrator, Union Territory of Delhi (AIR 1981 SC 746)**, the Court held that the Right to Life includes the Right to Live with Human Dignity and entitles a detenu to meet family members, friends and lawyers.

In **State of Maharashtra v. Prabhakar Panduranga (AIR 1966 SC 424)**, it was held that denial of the right to write a book and get it published amounted to a denial of Right to Freedom of Speech and Expression and hence violative of Article 21.

Courts have also held, as in **Mahammad Giasuddin v. State (1977 3 SCC 287)** and **Gurudev Singh v. State of H.P. (AIR 1992 HP 70)** that prisoners who are forced to work are entitled to the minimum wages in law else it would amount to forced labour in violation of Article 23.

The Supreme Court's guidelines for cases of arrest and detention as decided in the case of **D. K. Basu v. State of West Bengal (AIR 1997 SC 610)** is a landmark decision for protection of a prisoner's Right to Life under Article 21.

125) Explain the human rights available to convicts and prisoners with the help of case law

Ans: See answer to Q 124 immediately preceding above.

126) Critically examine the rights of convicts and prisoners

Ans:

While prisoners lose some of the fundamental rights because of their confinement, it is undeniable that as human beings they are entitled to all the other basic rights available to anyone else. Article 39 of the Constitution, inter alia, imposes a mandate on the State to provide free legal aid to ensure that opportunities for serving justice are not denied to any citizen. Courts have stepped in and have on numerous occasions read into the rights of prisoners the right to life and personal liberty under Article 21 and other fundamental right guaranteed under the Constitution.

The rights so guaranteed are:

- (1) **Right to Legal Aid** (Free Legal Aid if so required) as brought out in **M. H. Hoskot v. State of Maharashtra (AIR 1978 SC 1548)** and in **Hussainara Khatoon v. State of Bihar (AIR 1979 SC 1369)**.
- (2) **Right to Speedy Trial** as held in **Hussainara Khatoon v. State of Bihar (AIR 1979 SC 1369)**.
- (3) **Right Against Inhuman Treatment, Handcuffs and Fetters** as observed in **Kishore Singh v. state of Rajasthan (AIR 1981 SC 625)**, **Prem Shankar Shukla v. Delhi Administration (AIR 1966 SC 2957)** and in **Sunil Batra v. Delhi Administration (AIR 1978 SC 1675)**.
- (4) **Rights in the Matter of Narco-Analysis, Brain-Mapping and Polygraph Tests** as held in **Prem Shankar Shukla v. Delhi Administration (AIR 1966 SC 2957)**.
- (5) **Right to consult a Lawyer and to meet relatives and friends** as held in **Francis Coralie Mullnin v. The Administrator, Union Territory of Delhi (AIR 1981 SC 746)**.
- (6) **Right to Freedom of Speech and Expression** as held in **State of Maharashtra v. Prabhakar Panduranga (AIR 1966 SC 424)**.
- (7) **Right to Reasonable Wages for work in the prison** as decided in **Mahammad Giasuddin v. State (1977 3 SCC 287)** and **Gurudev Singh v. State of H.P. (AIR 1992 HP 70)**.

127) Critically examine the rights of accused

Ans: See answer to Q 126 immediately preceding above.

128) Write a short note on any five Rights of prisoners in India

Ans:

Courts have stepped in and have on numerous occasions read into the rights of prisoners the right to life and personal liberty under Article 21 and other fundamental right guaranteed under the Constitution.

The rights so guaranteed are:

- (1) Right to Legal Aid (Free Legal Aid if so required).
- (2) Right to Speedy Trial.
- (3) Right Against Inhuman Treatment, Handcuffs and Fetters.
- (4) Rights in the Matter of Narco-Analysis, Brain-Mapping and Polygraph Tests.
- (5) Right to consult a Lawyer and to meet relatives and friends.
- (6) Right to Freedom of Speech and Expression.
- (7) Right to Reasonable Wages for work in the prison.

129) Write a short note on: Human Rights and convicts

Ans:

Even when a person is convicted for a crime other than serious ones which may deprive him of his right to life, he is entitled to basic human rights as available to prisoners in general. The Supreme Court has observed in *Charles Shobraj v. Superintendent, Central Jail, Tihar* (AIR 1978 SC 1514), that imprisonment of a prisoner is not merely retribution or deterrence but also rehabilitation.

Various fundamental rights under Article, 14, 19, 20, 21 and 22 of the Constitution of India impliedly deal with the rights of prisoners. Article 14 deals with right to equality which provides equality before law and equal protection of law to all persons. Article 21 deals with right to life and personal liberty. Article 20 deals, inter alia, with two things, firstly it prohibits double jeopardy, that is, no person should be convicted for same offence twice. Secondly, it prohibits self incrimination, that is, no one can be compelled to be witness against himself.

Famous constitutional writer Upendra Baxi has opined that scope of Article 21 is so vast that we do not need any other rights in our Constitution, and in the light of the Supreme Court's 'construction' of the meaning of 'life' under Article 21, whereby all the rights such as right to health, right to food, right to shelter, right to bail, right to speedy trial, right to free legal aid, right against custodial violence and death in police lock-ups or encounters, Right to meet friends and family members, Right to reasonable wage in prison, right against cruel and unusual punishment etc., have been included under it.

130) Write any two Rights of prisoners at the time of arrest

Ans:

- (1) **Right to know the ground of arrest** – Article 22 (1) of the Constitution provides that no person who is arrested shall be detained in custody without being informed as soon as may be, of the ground for such arrest nor shall be denied the right to consult, and to be

defended by a legal practitioner of his choice. The right is also incorporated in Section 50 (1) of CrPC.

- (2) **Right to Information regarding the right to be released on bail** – Section 50 (2) provides that, where the police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.
- (3) **Right to be taken before a Magistrate without delay** – Under Sections 56 and 76 of CrPC, an arrested person is required to be produced before a magistrate within 24 hours of his arrest.
- (4) **Right Against Unnecessary Restraint** – Section 49 of CrPC provides that there should be no more restraint than is justly necessary to prevent escape i.e. reasonable force should be used for the purpose, if necessary; but before keeping a person under any form of restraint there must be an arrest. Restraint or detention without arrest is illegal.
- (5) **Right to consult a Legal Practitioner** – Article 22(1) of the constitution provides that no person who is arrested shall be denied the right to consult a legal practitioner of his choice. Further, as has been held by the Supreme Court the state is under a constitutional mandate under Article 21 to provide free-legal aid to an indigent accused person. Section 303 of CrPC also provides that any person against whom proceedings are instituted has a right to be defended by a pleader of his choice. The right of an arrested person to consult his lawyer begins from the moment of his arrest.
- (6) **Right to be examined by a Medical Practitioner** – Section 54 of CrPC provides the right to medical examination to an arrested person. Such examination can be critical if it leads to any fact which can have a bearing on the commission of the crime itself.
- (7) **Right to a Fair and Just Trial** – Article- 14 of the Indian Constitution states that “every individual is equal before the law” which means that all the sides in a legal dispute must be treated equally. The principle of natural justice must be considered in respect to both the parties. Similarly, a right to a speedy trial has also been upheld in **Hussainara Khatoun v. State of Bihar (AIR 1979 SC 1369)**, wherein the Court observed that, “the trial must be disposed of as diligently as possible”.
- (8) **Right to keep quiet** – The right to keep quiet does not have any mention in any Indian law. However, its authority can be derived from the Constitution’s right against self-incrimination under Article 20 (2).

131) Elaborate the rights of prisoners with the help of D. K. Basu’s case and other Supreme Court Judgments

Ans:

The rights of prisoners provided either under the Constitution itself or in CrPC, include:

- (1) Right to know the ground of arrest
- (2) Right to Information regarding the right to be released on bail

- (3) Right to be taken before a Magistrate without delay
- (4) Right Against Unnecessary Restraint
- (5) Right to consult a Legal Practitioner
- (6) Right to be examined by a Medical Practitioner
- (7) Right to a Fair and Just Trial
- (8) Right to keep quiet
- (9) Right Against Inhuman Treatment, Handcuffs and Fetters
- (10) Right to Freedom of Speech and Expression.
- (11) Right to Reasonable Wages for work in the prison.

Notwithstanding the availability of the above rights, torture and deaths in police custody continued. In response to some cases which came up during the landmark case of *D. K. Basu v. State of West Bengal* (AIR 1997 SC 610), the Supreme Court, while quoting the rights under Article 21 and 22 of the Indian Constitution, made very serious observations regarding the dehumanising torture, assault, rape and deaths in police custody. It laid down guidelines which mandated eleven procedures to be followed by the authorities when a person was arrested. These were:

- (i) Police personnel making the arrest must have identification/name tags along with designation
- (ii) Police Officer carrying out the arrest must make a memo of arrest with time of arrest and have the same signed by at least one witness – could be family member or respectable member of the locality in which arrest is made.
- (iii) Person arrested and being kept in custody to be entitled to keep one friend or relative informed about arrest and place where he is being held.
- (iv) Time, place of arrest and venue of custody must be notified to the family within 8 to 12 hours of the arrest.
- (v) Person arrested must be made aware of his right to inform someone.
- (vi) An entry must be made in the diary at the place of detention
- (vii) Arrestee, if he requests, should be examined at the time of his arrest and any injuries already there to be recorded. Inspection Memo to be signed by both arrestee and the police officer
- (viii) Arrestee to be subjected to medical examination every 48 hours during his police custody.
- (ix) Copies of all documents including memo of arrest to be sent to Magistrate for his record.
- (x) Arrestee should be allowed to meet his lawyer during interrogation.
- (xi) Police Control Room to be kept informed about arrest and place of custody within 12 hours of arrest and Police Control Room to display the information on Notice Board.

132) Write a short note on: Minorities Commission

Ans:

The Union Government set up the National Commission for Minorities (NCM) under the National Commission for Minorities Act, 1992. Six religious communities, viz; Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) and Jains have been notified as minority communities. The Act provides that the Commission shall consist of (1) A Chairperson, (2) A Vice Chairperson and Five Members to be nominated by the Central Government from amongst persons of eminence, ability and integrity. All have to be from amongst the minority communities.

The NCM adheres to the United Nations Declaration of December 18, 1992 which states that "States shall protect the existence of the National or Ethnic, Cultural, Religious and Linguistic identity of minorities within their respective territories and encourage conditions for the promotion of that identity."

The Commission has the powers of a Civil Court in performing its functions which are:

- (1) Evaluate the progress of the development of Minorities under the Union and States.
- (2) Monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures.
- (3) Make recommendations for the effective implementation of safeguards for the protection of the interests of Minorities by the Central Government or the State Governments.
- (4) Look into specific complaints regarding deprivation of rights and safeguards of the Minorities and take up such matters with the appropriate authorities.
- (5) Cause studies to be undertaken into problems arising out of any discrimination against Minorities and recommend measures for their removal.
- (6) Conduct studies, research and analysis on the issues relating to socio-economic and educational development of Minorities.
- (7) Suggest appropriate measures in respect of any Minority to be undertaken by the Central Government or the State Governments.
- (8) Make periodical or special reports to the Central Government on any matter pertaining to Minorities and in particular the difficulties confronted by them.
- (9) Any other matter which may be referred to it by the Central Government.

The Commission has the following powers:

- (1) Summoning and enforcing the attendance of any person from any part of India and examining him on oath.
- (2) Requiring the discovery and production of any document.
- (3) Receiving evidence on affidavit.
- (4) Requisitioning any public record or copy thereof from any court or office.
- (5) Issuing commissions for the examination of witnesses and documents.

133) Write a short note on: National Commission for Schedule Castes

Ans:

The National Commission for Scheduled Castes is a constitutional body under the Ministry of Social Justice and Empowerment, Government of India established with a view to provide safeguards against the exploitation of Scheduled Castes and Anglo-Indian communities to promote and protect their social, educational, economic and cultural interests. Article 338 of the Indian constitution deals with National Commission for Scheduled Castes.

The following are the functions of the Commission:

- (1) To investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards
- (2) To inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes
- (3) To participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State
- (4) To present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards
- (5) To make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes
- (6) To discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

134) Explain : Role of NGO's in the Protection of Human Rights

Ans:

NGOs play a crucial role in the protection of human rights and they serve as a tool for the society to utilise. Their success is therefore largely predicated on the confidence and support of the populations. They perform their role by:

- (1) Fighting individual violations of human rights either directly or by supporting particular 'test cases' through relevant courts
- (2) Offering direct assistance to those whose rights have been violated

- (3) Lobbying for changes at governmental and other levels
- (4) Helping to develop the substance of those laws
- (5) Promoting knowledge of, and respect for, human rights among the population.

Some of the NGOs which have a substantial presence and have rendered great service in the protection of human rights in India include:

- (1) The Centre for Development of Human Rights which is based in New Delhi and whose efforts to promote social and global justice is guided, on the one hand, by the Universal Declaration of Human Rights and the International Convention of Economic, Social and Cultural Rights and on the other by the thoughts of Mahatma Gandhi and Dr. B. R. Ambedkar.
- (2) Vigil India which is Bangalore based, has set up an Institute of Human Rights to conduct training programmes for human rights activists.
- (3) Confederation of Human Rights Organisations, a Kerala based NGO which aims to protect and strengthen the rights of the traditionally oppressed and exploited social segments.
- (4) Ensaaf, a Punjab based NGO, works to achieve justice for mass state crimes.
- (5) Manab Adhikar Sangram Samiti, an Assam based NGO concentrates on human rights education, mass mobilisation, resistance and documentation of human rights violations.
- (6) Amnesty International, a London based organisation, is one of the most known international organisations. It operates in multiple sectors such as rights of women, children and minorities, abolition of death penalty, abolition of torture, rights of refugees etc.
- (7) Other international NGOs in the field of Human Rights which have a global presence include the Washington based “The Human Rights Action Center”, New York based “Human Rights Watch” and Brussels based “Human Rights without Frontiers”.

135) Write an essay on any three NGO's in India

Ans:

- (1) The Centre for Development of Human Rights which is based in New Delhi and whose efforts to promote social and global justice is guided, on the one hand, by the Universal Declaration of Human Rights and the International Convention of Economic, Social and Cultural Rights and on the other by the thoughts of Mahatma Gandhi and Dr. B. R. Ambedkar. It seeks to strengthen the field of all human rights and in developing the tools for achieving their respect, protection and fulfilment.
- (2) Vigil India which is Bangalore based, has set up an Institute of Human Rights to conduct training programmes for human rights activists. Its efforts are focused on Dalits, Tribals, Children and Women.
- (3) Confederation of Human Rights Organisations, a Kerala based NGO which aims to protect and strengthen the rights of the traditionally oppressed and exploited social

segments of Tribals, Dalits, Minorities, Backward Castes, Women, Children and victims of State violations. It has conducted public trials and fact-finding sessions at different places in Kerala, where it felt that the police and the judiciary have not been able to punish human rights violators.

(4) Ensaaf, a Punjab based NGO, works to achieve justice for mass state crimes by documenting abuses, bringing perpetrators to justice, and assisting survivors. It has established an international reputation for innovative and effective advocacy.

(5) Manab Adhikar Sangram Samiti, an Assam based NGO concentrates on human rights education, mass mobilisation, resistance and documentation of human rights violations. It has challenged the human rights violations in Assam by the Indian Army, Paramilitary forces and the Assam Police.

136) What is Amnesty International

Ans:

Amnesty International, founded in 1961, is an international NGO focused on human rights, with its headquarters in the United Kingdom. The stated mission of the organization is to campaign for "a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments."

Amnesty draws attention to human rights abuses and it campaigns for compliance with international laws and standards. It works to mobilize public opinion to generate pressure on governments where abuse takes place. Amnesty considers capital punishment to be "the ultimate, irreversible denial of human rights." The organization was awarded the 1977 Nobel Peace Prize for its "defence of human dignity against torture," and the United Nations Prize in the Field of Human Rights in 1978.

The stated objective of Amnesty International is to conduct research and generate action to prevent and end gross abuses of human rights and to demand justice for the victims. Amnesty International operates primarily in the following areas:

- (1) Rights of women, children and minorities
- (2) Abolition of the death penalty
- (3) Abolition of torture in all its forms
- (4) Rights of refugees
- (5) Rights of prisoners of conscience
- (6) Protection of human dignity.

Amnesty International is largely made up of voluntary members but retains a small number of paid professionals. In countries in which Amnesty International has a strong presence, members are organized as "Sections". Sections co-ordinate basic Amnesty International activities normally with a significant number of members, some of whom will form into "groups", and a professional staff. The highest governing body is the

Global Assembly which meets annually. Each Section sends its chair and executive director to the Global Assembly.

137) Write a short note on : Amnesty International

Ans: See answer to Q 136 immediately preceding above.

138) Explain Amnesty International

Ans: See answer to Q 136 on pages 84-85

139) Write two important features of Amnesty International

Ans:

Some of the very important areas in which Amnesty International is playing a leading role as a vanguard are:

- (1) Opposition to Capital Punishment in all cases irrespective of the crime committed or the circumstances surrounding the crime or the individual in question or the method of execution.
- (2) Opposition to Female Genital Mutilation (FGM) which is also known as female circumcision and is rampant in several countries. It is estimated that more than 200 million girls, mostly between the ages of 15 and 19, have been subjected to this barbarous ritual all over the world.
- (3) Amnesty International aims to end extra-judicial executions and disappearances, decriminalise abortion, ensure free education to all children worldwide, promote economic, social and cultural rights for marginalised communities, ensure a prompt and fair trial for all political prisoners and uphold the rights of refugees, migrants and asylum seekers.