

**SELF-LEARNING
MATERIAL**



MA SOCIAL WORK

MASW 203 : HUMAN RIGHTS AND SOCIAL JUSTICE

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MASW 203

HUMAN RIGHTS AND SOCIAL JUSTICE

Unit I: Human Rights

- Human rights: Concept & Characteristics
- Historical development, generations of human rights
- International Bill of Rights
- Human Rights in India: Evolution of the concept of Human Rights
- Constitution of India and Human Rights: Fundamental Rights and DPSP
- The Protection of Human Rights Act, 1993

Unit II: Social Justice

- Social Justice: Definition & Meaning
- Concept & Scope
- Thoughts of Miller, Rawls and Karl Marks
- Issues of Social Justice in Indian society
- Inequality: Social, Political and Economic.

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Unit – I: Human Rights

Unit Structure

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1.2 Human Rights: Concept & Characteristics

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1.7 The Protection of Human Rights Act, 1993

1.1 Learning Objectives

The learning objectives of Unit I are as follows:

- To learn about basic human rights
- To gain knowledge about Concepts and Characteristics of Human Rights
- To be able to understand about the history of human rights

1.2 Human Rights: Concept & Characteristics

Value in general is a part of philosophy. Philosophy is one of the basic subjects which deals with the basic problems of mankind. In its discourse, it deals with issues such as existence, knowledge, values, reasons, mind, and language. Its theoretical perspective developed by various theoreticians is mainly based on a rational approach with a critical outlook. Based on the parameters of value, several other aspects were developed to regulate the behavioral patterns of man. These values such as dignity, liberty, equality justice, ethics, and morals et.al., have had a significant impact on shaping human relations in a society. These philosophical concepts have a profound impact on law.

The main aim and function of Law in any society are to regulate the relations between men and to alleviate the intensity of conflicts to promote peace, security, and good and orderly behavior of mankind to establish a conflict-free society. This being the main function of law,

it absorbs all the essential tools from every field of study with a critical outlook. This in turn will help to analyse each issue and lay norms to develop a rational human mind to achieve maximum results in their inter-relationships with each other. Since the concept of rights and its exercise and regulation centered around basing several values developed from ancient to modern times, they have had a great impact on the realization, promotion, and protection of human rights. Given the linkage and importance that values play a significant role in the promotion and realization of human rights; the different concepts of values are examined in brief.

Human Values

"The value concept... [is] able to unify the diverse interests of all the sciences concerned with human behavior.".....Rokeach.

The above view of the psychologist makes it clear, the concept of value and its relationship with the behavioural pattern of individuals in a society. In general, we think of values that are commonly followed by us in day-to-day life. These values vary from person to person, depending on the experiences and circumstances in which they grow. However, there are certain basic values which are common to all. They are life, liberty, security, freedom, and success, security to life, kindness, pain, and pleasure. Depending on the circumstances, in which each person grows up considers which value is important to him. But adhering to values that are common to all, in the longer run develops a society to establish peace for the progressive all-round development of all the sections of society. This will help to learn to live with unity in diversity.

According to several scholars, conceptually values are beliefs that are subjective in their exercise by each individual. Values motivate people to achieve their goals. Values transcend time and territory develop relationships and regulate the behavioral patterns of individuals.

These being the central aspects of values, many scholars identified ten basic values, which motivate and regulate the behavior of human beings in achieving their goals. They are :

- Self-destruction, which promotes independent thought results in a judicious decision-making process in creating or exploring the goal.
- Stimulation creates excitement, novelty, and challenges in life.
- Hedonism (Self Satisfaction) brings pleasure and sensuous gratification to oneself.

- Achievement demonstrates the competence of individuals according to the standards of society.
- Power brings in social status and prestige, control over people, and resources.
- Security brings in harmonious relationships between individuals, to guide society to establish a compatible environment for people to lead a life with pleasure and groom their freedoms.
- Conformity to social standards mainly regulates the behavior of individuals,

Dignity

Dignity is another value that regulates the behavior of individuals. Dignity is a relative term with a regulatory nature. It prescribes the norms and ethical standards that need to be followed and adopted.

In the day-to-day inter-relationships, individuals are expected to behave with one another in a dignified and honest manner. This concept dictates that every one of us has to exercise due caution and care in our relations without undermining the capacities of other persons. Further, it teaches us not to create a situation wherein others are made to undergo either emotional, psychological, physical, or tense situations, or to harm their personality.

Since dignity plays a vital role, in regulating human relations and for the furtherance of human rights, (especially, the basic rights of liberty, equality, and freedom), the Universal Declaration of Human Rights (UDHR), in no uncertain terms declared that all individuals are equal in the eye of law. All deserve to be treated with utmost respect without harming the dignity of others at all times. If people across the world follow the ethical norm of dignity without any deviance, the realization of rights would be easy. This fundamental norm applies to individuals and States to follow with strict adherence. In the modern context though several conventions, covenants, and declarations have been adopted in the international arena, to promote human rights on the concept of dignity. The lack of adherence by individuals and nation-states brought in untold sorrow, and miseries to mankind. The nonadherence to ethical values, especially, the indecent behavior of individuals at times, poses several problems in the contemporary era. This in turn affects the promotion and realisation of human rights.

Liberty

Liberty is another concept that plays a vital role in the promotion of human rights. Liberty is an ancient concept. This concept has its roots in the political philosophy. Several philosophers like, Hobbes, Locke, Rousseau, and many more have articulated Liberty in different contexts. In simple terms, liberty means, human beings are free to regulate their relations, and can govern their relations, behave at their own will, and be responsible for their acts. The concept of liberty is centered around responsibility or duty. Based on the acts performed by individuals, liberty can be enjoyed or achieved. If the acts are bad or performed to defray anybody or deprive them of their legal claims, they not only affect the rights of others but also of their own in the long run. This in turn will affect the realisation of their rights.

The concept of liberty is the basis for the development of a right. According to Hobbes, every individual is empowered to enjoy their freedoms freely without the interference of any other person. In his social contract theory, he argued that the divine will of kings to regulate the relations and to restrict the freedoms of individuals is antithetical to the liberty of individuals. The enlightenment of liberty by various political and legal philosophers led to several political revolutions across the world. This in turn led to establish democratic societies based on the liberty of individuals to choose their leaders.

In the contemporary era, the excessive arguments for liberty, and its indiscriminate exercise without strict adherence to duty by individuals in their numerous acts, again resulted in bringing miseries to the world. To resolve the problems and to provide a problem-free world, the UN took several legal steps for the promotion of human rights. These acts of the UN aim to regulate the behavior of mankind and to guide them to discharge their duties to uplift moral and ethical values. This in turn will help to restore liberty in its true sense and make individuals to be happy for their legal and justified actions.

Apart from the above, it is the duty of nation-states also to adhere to the principles of international law and human rights in their relations, respecting the concept of liberty of the other nations and their citizens. The Strict adherence to liberty and practice of self-restraint alone would yield the desired results in protecting the rights of every citizen as guaranteed by law.

Equality

Equality is another important component of human rights. From ancient to modern times, people have been fighting to achieve this in terms of its practical application to each situation. In general, equality proposes to bring all the people into one category, and apply the principles of law, and justice without any distinction, whatsoever it may be among the individuals. Equality is a relative concept that may be distinguished based on several factors, and the enjoyment of rights on an equal footing. The aim of the Universal Declaration of Human Rights and the Constitutions of the various countries including India is to treat all the people on an equal footing without any kind of discrimination. This may be referred to as formal equality, wherein in the eyes of law all are equal.

Although all people are numerically considered equal in the eyes of the law, in providing the amenities or distribution of resources, all may not be considered or treated as equal in reality. This is because of the socio-economic, political, and cultural conditions that prevail in each society. To uplift the people who are not equal on any ground specified above, they need to be given certain concessions and facilities to improve their status and to reach equal status with that of others who are on a high pedestal.

To achieve the rigor of equality and to fill the gap, especially on socio-economic, and cultural grounds, the principles of international law of human rights provide for the necessary concessions to be extended, to people at the national level by states. This will result in achieving the status of equality of all in the eye of the law. Once they achieve equal status in all respects, the concessions extended

to specific groups of people to uplift their status may be withdrawn by the state. The same principle applies to states at the International level. Accordingly, the developed states need to extend concessions to the developing states.

Justice

Justice in simple terms may be defined as righteousness, fairness, and being treated on just and equitable grounds. Justice is an important concept that has attracted several fields especially, law and philosophy. To achieve absolute justice, scholars have prescribed several factors. Based on the various factors that are relevant to each society, and to fill the gap between unequals and equals, from ancient to modern times, several scholars have advocated various theories to achieve the concept of justice. To measure the concept of Justice, several tools are required. To achieve perfect justice, it lays its emphasis on concepts of equality, morality, and ethics. Human rights aim to provide such stable conditions to everyone by the

states, which alone could help to achieve the rights in a justiciable manner. According to Plato, Justice is the highest value, and to attain it, an individual has to be provided with all the necessary conditions to realize the right, and to discharge his duties towards society. It again emphasizes the actors and the state as well to discharge every single obligation with devotion to duty and respect for other values.

Ethics and Morals

Ethics and Morals are considered equal concepts. However, there exists a subtle difference between these two. Morals deal with the personal character of an individual. On the other hand, Ethics lays its importance on a social system, which regulates the code of conduct of a group of individuals. In other words, morals need to be applied in each society depending on the values that are acceptable by a society. From the perspective of human rights, the concept of freedom and liberty being basic principles forms part of moral principles. The concepts of Justice, Equality, and the participation of individuals in the socio-cultural aspects of the community are ethical aspects. Accordingly, every human being in a society is responsible at all times to strive to achieve human rights as a moral or ethical subject of society.

Value is the central issue of ethics. Ethics is a normative science of human conduct in society, which differentiates between right and wrong, good or bad, proper or improper. The standard, which makes one differentiate good from bad or right from wrong, is a value. Ethics concerning human rights presupposes freedom as a necessary pre-condition. A free man can take his decision of action and such a decision can be evaluated as good or bad, right or wrong, proper or improper. Goodness is the highest value. Goodness is objective, universal, and rational. Some basic values are courage, tolerance, benevolence, kindness, and friendship. Values are instrumental or absolute, intrinsic or extrinsic.

Values provide a standard to decide that an action is good. The basic issues of ethics/moral philosophy are freedom, duty, rights, responsibility, happiness, and goodness. Values are based on common or social consent. They are shared by all in the society.

The above brief discussion of the various concepts highlights the significance that human rights can never be achieved in toto until and unless, we the people of the United Nations (which includes the nation-states), discharge the responsibilities with utmost sincerity. This in turn enables us to achieve, universalization of human rights without any kind of deviation to race, sex, language, religion, region, etc. This leads one to learn how to live in a diversified

world, more particularly in the contemporary era of the fourth phase of globalization, wherein the concept of unity in diversity assumes greater significance than in yesteryear.

Unity in Diversity

Unity in diversity in general means, that people of different backgrounds based on their socio-economical, and politico-cultural perspectives have to live like a single family. This means the different faiths and characters that people possess have to live in a compatible manner under a single legal roof governed by a State. The same applies to people around the world, and the nation-states learn to live as one community. This being the main aim of international law to establish a one-world concept, it had given birth to human rights. It aims to achieve, the aspirations of profoundly divided humanity by setting a common standard of norms for all people and all nations. To accomplish the one world concept, mankind has a responsibility to learn to live harmoniously. Further, it will enable us to achieve the basic tenets of life, liberty, equality, dignity, and freedom of thought and expression with due care and caution to promote the rights of all the people living in different political systems. This will in turn enable us to claim legitimately the protection extended by human rights. And, to justify the existence of man as a humankind living under different political regions. It will help further, to establish the fundamental goal of the United Nations to resolve innumerable problems that are

haunting us both nationally and internationally. Nearer home, the concept of 'vasudhaiva kutumbakam', in the Indian context advocates the same ideology of living together mankind with values and morals, which alone ultimately establish a conflict-free society.

Meaning and Significance of Human Rights Education

Education should encompass values such as peace, non-discrimination, equality, justice, non-violence, and tolerance, to live in peace and security, and respect for human dignity. These objectives can be achieved only through imparting human rights education, which is an integral part of the right to education. Human Rights and Duties Education helps in achieving the comprehensive growth of every society.

According to the UN decade document for human rights education (1995-2004), human rights education means, “a lifelong process by which people at all levels of development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring that respect in all societies.”

Objectives of Human Rights Education

- 1 Human Rights Education promotes respect for the human rights of all individuals.
- 2 It develops the knowledge, skills, and values of human rights.
- 3 It develops the socio-psychological, human personality.
- 4 It helps people and policymakers to evolve the ways and means to overcome the problems of each nation and that of the International Community.
- 5 It helps to foster understanding, tolerance, gender equality and
- 6 Develops friendship among all nations and eliminates racial, ethnic, religious, and linguistic differences.

Several models have been developed to impart the above values of human rights education. Among the various models, the following three are considered the vital ones, to achieve the aims and objectives of human rights.

1.Values and Awareness Model: This model focuses on transmitting basic knowledge of human rights and fostering integration into public values through a curriculum of educational institutions.

2.Accountability Model: This model focuses on how professional responsibilities inculcate direct monitoring of human rights violations and advocating for the authorities to protect the rights of the people.

3.Transformational Model: This model aims to empower individuals to recognize the abuses of human rights and their prevention.

These being the core concepts of human rights education, the UN has framed guidelines to propagate human rights through various methods and means both at the International and National levels.

Value is an important aspect of life, it forms part of Law and Society. The value is a central point that regulates the relations between individuals; scholars have identified several points. By adhering to these points, an individual can achieve the goals in life.

- Dignity being another aspect of value regulates the behaviour of individuals. Human relations and the exercise of human rights depend on dignity, which is the most important aspect of the basic rights of liberty, equality, and freedom. The entire human rights law has been developed based on these aspects.

- Liberty is another important concept. According to various scholars, duty alone protects the concept of liberty. It is this concept that has given a basis for right. If liberty is not exercised properly, it will result in upsetting the applecart of rights.
- Equality is an important component of human rights. Equality proposes to bring in all people under one category. Any kind of inequalities are in existence, it is for the States to eliminate them through a legal mechanism. This will result in a classless society.
- Human rights aim to do justice to every individual. To achieve perfect justice, all the qualities of humankind and values need to be followed by every individual to achieve the realistic concept of justice.
- Ethics deals with the personal character of individuals. Morals emphasized the social system. The strict adherence of ethical practices alone makes a society healthy which in turn could help the people to realise their human rights.
- There exist several differences between various individuals in a society. However, obedience to human rights will result in living together with unity in diversity among the individuals. The outcome of it will bridge the gap between nation-states and establish the concept of one world.
- Human Rights Education teaches us the practice of various values to be adhered to. At the same time, the knowledge of it transforms individuals accountable for their acts either at a personal level or societal level. The knowledge of human rights would also lead us to establish an orderly, peaceful, and friendly society both in the international and national spheres.

Perspective of Rights and Duties

This Unit will briefly summarize the meaning of rights and their importance and the conceptual perspective in brief. It will examine the relationship between rights and duties and the values that bind the individual in discharging their duties towards one another in a civilized society.

1.3 Historical development, generations of human rights

Rights

Etymology of 'right':

The word which we use in modern English terminology has its origin from the old English right. In the early periods, it had been used with different nomenclatures in various languages across the World. Accordingly, it has gained several meanings, depending on the situation with a wide variety of expressions. In the language of law, they are moral, ethical entitlements that need to be conferred and exercised as framed by an authority of law.

Based on the different expressions, there exists considerable debate in academic circles, especially in fields like Political Science, Philosophy, Anthropology, and Law about the foundation, meaning, and function of rights in different contexts. Before discussing the various types of rights, a simplified meaning and analysis are provided here for an easy understanding of the various facets of a right.

Meaning of a Right:

From a historical point of view, 'right' in its objective sense is described as right or just actions that individuals have to discharge to maintain harmonious relationships between themselves. In the modern or subjective sense, its definition is long and divisive. Whatever may be the controversy, and scholarly discussion that surrounds the historical origins, and the different meanings that 'Right' has, in general rights mean- a legal sanction or normative value.

Analysis of Right:

In its analytical perspective, "right" has two parts (form and function). One is the internal structure of rights (their form), and the other is what rights do for those who hold them (function). Accordingly, right is a combination of claim and duty. This means a right confers certain liberties or privileges and imposes duties upon individuals to exercise while claiming their rights. Several jurists define the concept of the exercise of rights with duty as positive and negative rights. Accordingly, the person who is possessive of positive rights is entitled to the provision of some goods or services. A holder of a negative right is entitled to non-

interference. In the eyes of the law, the Right confers on a person a certain amount of liberties and privileges. At the same time impose obligations to discharge. Furthermore, possessing a right should also enable a person to exercise it. This part of the empowerment mechanism could be achieved only by imparting the values of human rights education.