

# HUMAN RIGHTS

- **MORAL ISSUE OF INTERNATIONAL POLITICS (HUMAN RIGHTS)**
- Human Rights are universal moral rights. According to Macfarlane, there are 5 distinguishing features: universality, individuality, paramountacy, practicability and enforceability.
- Universality implies that these rights belong to all people. These are individualistic, for it accepts the notions of free individual, human dignity and individual moral choice. They are paramount for a denial of these rights is an affront to justice.
- Practicability suggests the feasibility of attaining these rights. These rights are enforceable by the state through its elaborate legal and constitutional machinery.

# PHILOSOPHICAL OR MORAL JUSTIFICATION OF HUMAN RIGHTS

- **(1) HUMAN DIGNITY**
- The rights that people possess have often been argued to be grounded in the basic dignity of the human person.
- **(2) REASON**
- More commonly, liberal approaches stress human characteristics, rather than divine ones.
- **(3) AUTONOMY**
- The self-directed or self-authored life is considered to be the human ideal.
- **(4) EQUALITY**
- The idea of political equality can mean the right to equal treatment, or the right to treatment as an equal.

- **(5) NEEDS**
- All human beings have certain basic needs- the most obvious ones being to do with security and subsistence.
- **(6) CAPABILITIES**
- This neo-Aristotelian approach focuses on what people are capable of being and doing: it is oriented towards human potential and fulfilment.
- **(7) CONSENSUS**
- This pragmatic approach is reluctant to be too specific about a particular grounding or foundation of human rights.

# TYPES OF HUMAN RIGHTS

- Human rights can be divided in the following manner:
- **(a) Liberty rights:** First generation rights.
- **(b) Welfare rights:** Second generation rights.
- **(c) Group rights:** Solidarity rights, Available for all people belonging to developing countries. Cultural rights are also part of Group rights. It is also known as third generation rights.
- **Post-Modernist Rights (LGBTIQ Rights):** Many people's human rights are violated because of their sexual identities. Lesbian, Gay, Bisexual, Transgender, Intersex, and Queer (LGBTIQ) people frequently endure harassment, discrimination, abuse, and degrading treatment; many are denied full rights of citizenship and are subjected to arrest and criminal punishment; some endure torture and murder. This denial, driven by prejudice and fear, often manifests itself in the criminalizations of certain sexual behaviours.

# HUMAN RIGHTS IN INTERNATIONAL LAW

- (1) **The Universal Declaration of Human Rights** adopted by the United Nations General Assembly in 1948.
- (2) **The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights** of 1966.
- (3) **The European Convention for the Protection of Human Rights and Fundamental Freedoms** of 1950.
- (4) **The American Convention on Human Rights** of 1969.

- **(5)The African Charter on Human and Peoples' Rights of 1981, usually referred as the Banjul Charter.**
- **(6)The Convention on the Prevention and Punishment of the Crime of Genocide of 1948**
- **(7)The International Convention on the Elimination of All Forms of Racial Discrimination of 1965.**
- **(8)The International Convention on the Elimination of Discrimination Against Women of 1979.**
- **(9)The Vienna Declaration and Action Programme of 1993.**

# INSTITUTIONS FOR PROTECTING HUMAN RIGHTS

- **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 UN Human Rights Office. It was established by the UN General Assembly on **20 December 1993**, in the wake of the 1993 World Conference on Human Rights.
- The ICC is the first and only permanent international court with jurisdiction to prosecute individuals for the international crimes of genocide, crimes against humanity, war crimes and the crime of aggression. It was established in **1998** and entered into force from **2002**.
- The **United Nations Human Rights Council (UNHRC)** is a United Nations body whose mission is to promote and protect human rights around the world. The UNHRC has **47 members** elected for staggered **three-year** terms on a regional group basis. It was formed in **2006** by UN General Assembly, its headquarters is in **Geneva, Switzerland**.


# UNIVERSAL OR CULTURALLY RELATIVE

- Human rights are moral therefore it becomes universal but the human rights is propounded from the western materialistic societies, where individual is considered as an atom, state is recognized as secular and individual is more important than community.
- Therefore Saudi Arabia and USSR raise their objection against universality of human rights.
- **ASIAN VALUES:**
- Mahathir Mohammad of Malaysia, regarded the West as morally decadent because of the growth of the gay rights and the relative success of the women's movement in combating gender discrimination. Critics accused Mahathir and others of justifying their own authoritarian rule, although it should be noted that 'Asian Values' can only perform this task if the argument strikes a chord with ordinary people.



# HUMANITARIAN INTERVENTION

- **LEGAL ARGUMENT:**
- The 'counter-restrictionist' case for a legal right of individual and collective humanitarian intervention rests on two claims: first, the UN Charter (1945) commits states to protecting fundamental human rights, and second there is right of humanitarian intervention in customary international law.
- Counter-restrictionists argue that human rights are just as important as peace and security in the UN Charter.
- Other counter-restrictionists admit that there is no legal basis for unilateral humanitarian intervention in the UN Charter, but argue that it is permitted by customary international law.
- Critics say that these arguments exaggerate the extent of consensus about the rules governing the use of force, and their reading of the textual provisions of the UN Charter runs contrary to both majority international legal opinion.

- 
- **MORAL CASE:**
  - Many writers argue that, irrespective of what the law says, there is a moral duty to intervene to protect civilians from genocide and mass killing.
  - Some point to the idea of common humanity to argue that all individuals have basic human rights and duties to uphold the rights of others.
  - Others argue that today's globalised world is so integrated that massive human rights violations in one part of the world have an effect on every other part.

# ARGUMENTS AGAINST HUMANITARIAN INTERVENTION

- **(1) No basis for humanitarian intervention in international law:** Restrictionist international lawyers insist that the common good is the best preserved by maintaining a ban on any use of force not authorized by the UNSC.
- **(2) States do not intervene for primarily humanitarian reasons:** States almost always have mixed motives for intervening and are rarely prepared to sacrifice their own soldiers overseas unless they have self-interested reasons for doing so.
- **(3) States are not allowed to risk the lives of their soldiers to save strangers:** Realists not only argue that states do not intervene for humanitarian purposes; their statist paradigm also asserts that states should not behave in this way.

- **(4)The problem of abuse:** In the absence of an impartial mechanism for deciding when humanitarian intervention is permissible, states might espouse humanitarian motives as a pretext to cover the pursuit of national self-interest.
- **(5)Selectivity of response:** States always apply principles of humanitarian intervention selectively, resulting in an inconsistency in policy.
- **(6)Disagreement about moral principles:** Pluralist international society identifies an additional objection to humanitarian intervention, the problem of how to reach a consensus on what moral principles should underpin it.

# RESPONSIBILITY TO PROTECT

- The Responsibility to Protect, the 2001 report of the International Commission on Intervention and state Sovereignty (ICISS), attempted to resolve the tension between the competing claims of sovereignty and human rights by building a new consensus around the principles that should govern the protection of endangered peoples.

# TERRORISM AND HUMAN RIGHTS

- Post cold war world is known for protection of human rights but ever since USA propounded the policy of war and terror, USA carried out military strikes against Afghanistan and Pakistan.
- Most of the nations framed strict laws in the name of tackling of terrorism which ultimately suppressed the human rights.
- On the ground of maintaining internal security state enacted tough laws against the terrorism which ultimately encroach the right to privacy and right of free movement.
- Democratic states are also adopting repressive techniques.

# GLOBALISATION AND HUMAN RIGHTS

- Global civil society actively working for the protection of human rights. Amnesty International human rights watch are actively participating in human rights movement. World social forum (2005) is also created for strengthening global civil society.
- But problem of refugees has been rising by each passing day. Indigenous people are also demanding for protection of their rights. Human trafficking is still going on in the various parts of the world.
- Human rights should not protect only from **fear** but it should also protect **absence of want** too.