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UNIT - III

Constitutional governance in India - Separation of powers - as a guarantee for liberty and freedom - Constitution and the Rule of Law - Ideals of the Constitution (Preamble) and human rights.

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UNIT - IV

Classification of rights -

- (i) Civil rights and Political rights ; and
- (ii) Economic, Social and Cultural rights

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UNIT - V

Constitutionally guaranteed fundamental rights -

- Right to Equality (Emphasis on rule of law)
- Right to Freedom - including right against arbitrary Arrest and detention
- Right against exploitation
- Right to Religion
- Cultural and Educational Rights
- Right to Constitutional Remedies

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UNIT - VI

Economic, Social and Cultural rights - Directive Principles of State Policy - Grouping of DPSP under Economic, Social and Cultural rights - Realisation of these rights under the Indian Constitution through legislative and governmental process.

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UNIT - VII

Relevance of fundamental duties to human rights - Individual versus group rights - correlation between fundamental rights, DPSP and fundamental duties - comparing the rights under the Indian Constitution with the international standards - scope for further development.

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UNIT - VIII

Composition, powers and functions of the National Human Rights Commission in India - Effectiveness of NHRC since its inception - Role of Voluntary agencies and the NGOs in the protection of human rights.

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PAPER II

INTERNATIONAL BILL OF RIGHTS - CIVIL AND POLITICAL RIGHTS

Objectives:

- a) To conceptually analyze and examine theoretical foundations of civil and political rights;
- b) To trace the developments which led to the establishment of civil and political rights internationally;
- c) To critically examine the various international instruments which have incorporated and developed civil and political rights and assess their contribution;
- d) To examine and assess effectiveness of various mechanisms and procedures available for implementation and enforcement of civil and political rights on international level;
- e) To examine the issue of domestic application of internationally recognized civil and political rights with specific reference to the legal systems prevalent in the Indian sub-continent and study the mechanisms available for their enforcement domestically;
- f) To impart training in developing some advocacy skills for national promotion and protection of civil and political rights.

UNIT - I

THEORETICAL FOUNDATIONS AND HISTORICAL DEVELOPMENTS

1. The concept of human rights. The place of civil and political rights in the human rights discourse.
2. Historical developments in modern Europe, Western Civilization, Non-Western Cultures and Civil and Political Rights. The process of de-colonisation. Developing countries and human rights. Socialist approach to Civil and Political Rights.
3. Internationalization of civil and political rights. The role of United Nations and other international

institutions. Universality versus cultural specificity of human rights.

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UNIT - II

BASIC INTERNATIONAL INSTRUMENTS ON CIVIL AND POLITICAL RIGHTS

1. The Universal Declaration of Human Rights.
2. The International Covenant on Civil and Political Rights.
3. Optional Protocol to the International Covenant on Civil and Political Right.

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UNIT - III

SELF-DETERMINATION

1. The Right to Self-determination.
2. The scope of the right and its limitations.
3. Self-determination during pre-1945 and post-1945 periods.
4. Self-determination vis-a-vis territorial integrity of a state. Successionist movements and wars of national liberation.

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UNIT - IV

CIVIL AND POLITICAL RIGHTS DURING WARS AND ARMED CONFLICTS

1. International humanitarian law and human rights.
2. War Crimes and crimes against humanity. Punishment of War criminals.
3. Crime of genocide.
4. Protection of refugees.
5. Humanitarian intervention.
6. Terrorism and Human Rights.
7. Civil and Political Rights during states of emergency.

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UNIT - V

CIVIL AND POLITICAL RIGHTS IN THE ADMINISTRATION OF JUSTICE

1. Protection of persons subjected to detention or imprisonment. Treatment of prisoners.
2. Code of Conduct for Law enforcement officials
3. Prohibition of torture and inhuman treatment
4. Administration of Juvenile Justice.

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UNIT VI

INTERNATIONAL ENFORCEMENT/IMPLEMENTATION MECHANISMS/REGIMES

1. The United Nations and enforcement and implementation of Human Rights.
2. Domestic application of international human rights norms.
3. The United Nations Commission on Human Rights.
4. The Human Rights Committee.
5. The United Nations High Commission for Human Rights.

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UNIT - VII

REGIONAL DIMENSIONS OF CIVIL AND POLITICAL RIGHTS

1. The European system.
2. The Inter-American System.
3. Civil and Political Rights in Africa, Middle East and Asia.

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UNIT VIII

CIVIL AND POLITICAL RIGHTS IN THE INDIAN CONTEXT

1. The Constitution of India and Civil and Political Rights
2. Human Rights legislation in India
3. Judicial response to protection and promotion of civil and political rights
4. National Human Rights Commission: a critical assessment

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UNIT IX

ALTERNATIVE STRUGGLE FOR ENFORCEMENT OF HUMAN RIGHTS

1. Peoples' movement for protection of civil and political rights.
2. The role of international non-governmental organizations.
3. Human Rights movement in India. The role of Indian non-governmental organizations.
4. Human Rights advocacy and its effectiveness.
5. The role of media and other professions in Human Rights advocacy.

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READING MATERIALS (DOCUMENTS)

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2. International Covenant on Civil and Political Rights
3. Optional Protocol to the International covenant on civil and political rights
4. Declaration on the granting of Independence to Colonial Countries and peoples
5. International Conventions on the Elimination of All Forms of Racial Discrimination
6. Convention on the prevention and punishment of the crime of Genocide
7. Standard Minimum Rules for the Treatment of Prisoners
8. International Convention on the Suppression and punishment of the Crime of Apartheid
9. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
10. Code of Conduct for Law Enforcement Officials
11. United Nations Standard Minimum Rules for the Administration of Juvenile Justice
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18. Convention relating to the status of refugees
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20. Declaration on territorial asylum
21. The African charter on Human and Peoples' Rights
22. The communications procedure Human Rights Fact sheet No. 7
23. European Human Rights Convention
24. American Convention on Human Rights

PAPER III
INTERNATIONAL BILL OF RIGHTS - SOCIAL, ECONOMIC AND
CULTURAL RIGHTS

(Including Covenants relating to Women, Children, and Indigenous People)

Objectives : The principal objectives of this paper are to:

- (i) outline the International legal regime of social, economic and cultural rights;
- (ii) examine and evaluate the effectiveness of the mechanisms evolved at different levels for the enforcement of ESC rights;
- (iii) study the international developments aimed at protection of the interests of the marginalized sections of human society like the indigenous people, refugees, women and children;
- (iv) reflect on the continuing international concern for and efforts towards realization of the right to development and inter-generational rights;
- (v) emphasize the relation between ESC rights and CP rights and the extent of dependence of one over the other for the protection and the meaningful existence of human rights; and
- (vi) elaborately discuss the extent of absorption and the level of enforcement of these rights in the Indian legal system.

COURSE OUTLINE

Unit I: Genesis and Evolution down the ages: Ancient oriental and European notions - Emergence of modern conceptions of rights - Distinction between individual and group rights - Internationalization of human rights.

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Unit II: International legal frame of ESC Rights: Universal Declaration on Human Rights, - ESC covenant - ILO conventions - Transnational models of Human Rights Declarations

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Unit VIII: Protection of Rights of minorities, women,
children and the Disabled: Elimination of
discrimination - Ethnic Cleansing - Nationality
question - Family institutions (marriage - adoption and
custody of children - property relations) - Status in
the work place - stake in representative bodies -
rights of the child.

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Unit IX: (A) International Aid, Trade and ESC Rights:
Dilemma related to trade centered development and growing third world dependence and perils of food insecurity - International Financial Institutions (IMF & IBRD) - Structural Adjustment programmes - Third World Debt crisis - GATT - WTO - Biodiversity Conservation convention - International Patent Regime and protection of ESC Rights.

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Unit X: Right to development and right to future: UN Declaration on Right to Development - Declaration on Social progress and development - differing perceptions as to models of Development. Global commons and rights of generation current and generation subsequent - Inter-generational equity.

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PAPER IV
HUMAN RIGHTS, LEGAL AID AND ACCESS TO JUSTICE

Objects:

The specific objects of Paper IV on "Human Rights, Legal Aid and Access to Justice" are, inter alia, the following:

- i) to understand the broad features and structures of the legal and judicial system;
- ii) to evaluate the processes available within and outside the legal system for accessing justice;
- iii) to acquaint with the nature and scope of legal services and legal aid to poor provided by the system;
- iv) to learn the techniques of using the courts and tribunals for human rights protection;
- v) to examine the nature of legal remedies and reliefs available for human rights violations;
- vi) to study various aspects of public interest litigation and its potential for human rights protection;
- vii) to learn special procedures available to weaker sections including women, children, tribals, workers and people with disabilities;
- viii) to develop capabilities in accessing institutions outside the judiciary for human rights protection;
- ix) to assess the relationship between domestic institutions and international institutions in human rights enforcement; and
- x) to explore new strategies and tools in human rights protection particularly for preventing abuses and violations.

Content

The course will have a core sector and a flexible component with varying content. This is to accommodate regional variations, emerging areas of human rights jurisprudence and needs of individual participants in the programme.

The course is divided into eight units each on a relevant theme. Each unit will have several topics and sub-topics and the list below is only illustrative and not exhaustive of these categories.

UNIT - I

1. The Legal System

- 1.1. The Laws - Substantive and Procedural; Public and Private
- 1.2. The Courts and Tribunals
- 1.3. The Legal Profession - Lawyers and Judges

References:

1. N.R. Madhava Menon "Know your legal system" *Select materials on Public Legal Education* (1991) Legal Services Clinic, National Law School of India University; Bangalore, p.1.
2. N.R. Madhava Menon "The Judicial System" *Select materials on Public Legal Education*, (1991) Legal Service Clinic, National Law School of India University; Bangalore, p.27.

2. The Social System

- 2.1. Religion, Communalism and Human Rights

- 2.2. Status of Women in Law and Society - select issues
- 2.3. Poverty as a cause and a product of Human Rights violations
- 2.4. Child Labour and Child Rights

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1. "Human Rights in Islam" Report of a seminar held in Kuwait, organised by the International Commission of Jurists, December 1980.
2. V.R. Krishna Iyer, *Justice at Crossroads* (1992) Deep and Deep Publications, New Delhi, Pp.228-249.
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3. *Politics, Administration and the Civil Society*
 - 3.1 Political Processes and Human Rights
 - 3.2 Legislative Processes and Human Rights
 - 3.3 Administrative Processes and Human Rights
 - 3.4 Media and Civil Society in Human Rights protection

References:

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UNIT - II

4. Pre-requisites for Access to Judicial Remedies

- 4.1 Locus Standi
- 4.2 Cause of action
- 4.3 Court Fee, Process Fee, etc.
- 4.4 Problems and difficulties

References:

1. Mool Chand Sharma *Justice P.N. Bhagwati Court, Constitution and Human Rights* (1995), Universal Book Traders; Delhi, Pp.72-76.

2. S.P.Sathe *Administrative Law* 5th Edn., (1991), N.M.Tripathi Pvt. Ltd., Bombay, Pp.377-392.
3. P.M. Bakshi 'Affidavits: some legal aspects' 35 *Journal of Indian Law Institute* (1993) 165.
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5. Legal Remedies

5.1 Civil remedies

5.2 Criminal remedies

5.3 Constitutional remedies

5.4 Problems and difficulties

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6. Problems in Accessing Justice through Courts/Tribunals

- 6.1 Delay in litigation
6.2 Cost involved in Court proceedings
6.3 Complexity and technicality
6.4 Special procedures for Human Rights protection

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1. V.R.Krishna Iyer, *Justice at Crossroads* (1992), Deep and Deep Publications; New Delhi, Pp.1-17 and 120-127.
2. Justice David Annouswami, 'What Ails the Judiciary', (1994) 6 *National Law School Journal* 110.
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7. P.Leelakrishnan 'Access to Legal Service and Justice' (1984) *Cochin University Law Review* 473.

UNIT - III

7. Legal Aid to Poor

- 7.1 Nature, Scope and Structure
- 7.2 Eligibility for services
- 7.3 Quality and availability

References:

1. K. Vasudeva Murthy, Legal Aid Services (1991) *Select Materials on Public Legal Education*, Legal Services Clinic, National Law School of India University; Bangalore, Pp.227-232.
2. N.R.Madhava Menon 'Unmet Legal Needs of the Poor and Organisation of Legal Aid Service', *Select Materials on Public Legal Education*, (1991) : Legal Services Clinic, National Law School of India University; Bangalore, Pp.238-243.
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6. R.K.Nayak 'Access to Justice Approach: A New Wave in Legal Representation' *Legal News and Views*, April 1993, p.131.

8. The Legal Profession and Human Rights

- 8.1 Social responsibilities
- 8.2 Complaints against professionals
- 8.3 Para-legals and barefoot lawyers

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9. Preventive and Strategic Legal Services

- 9.1 Legal awareness programmes
- 9.2 Lok Adalat and Alternate Dispute Resolution Methods
- 9.3 Class action and representative suits
- 9.4 Legal advice and Counselling

References:

1. V.R.Krishna Iyer, *Justice at Crossroads* (1992) Deep and Deep Publications; New Delhi, p.125.
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