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THAKURPUKUR
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Topic: Understanding Human rights
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Name of the Teacher: Sonamoni Kunti
Name of the Department: Women's Studies

❖ What are human rights?

Human rights' are the basic rights and freedoms that belong to every person in the world. They are the fundamental things that human beings need in order to flourish and participate fully in society.

Human rights belong to everyone, regardless of their circumstances. They cannot be given away or taken away from you by anybody – although some rights can be limited or restricted in certain circumstances. For example, your right to liberty (Article 5, European Convention on Human Rights) can be restricted if you are convicted of a crime.

They regulate the relationship between the state (including public authorities and public bodies, like schools and the police) and individuals. So 'states' or 'states' parties' are responsible for ensuring rights are provided to individuals, and individuals are 'rights-bearers'. This means that an individual cannot interfere with another person's rights, but that a school can fail to ensure that an individual's rights are exercised.

Human rights are underpinned by a set of common values, including Fairness, Respect, Equality, Dignity and Autonomy (FREDA).

There are many different human rights contained in the European Convention on Human Rights, reflecting our basic needs across different areas of our lives. Civil and political rights include the right to liberty (Article 5) and freedom of expression (Article 10), while economic, social and cultural rights include the protection of property (Article 1 of Protocol 1) and the right to education (Article 2 of Protocol 1). Every human right is needed to 'be human'.

The international community has agreed several key characteristics of human rights:

- Human rights are **universal** - they belong to everybody in the world.
- Human rights are **inalienable** - they cannot be taken away from people.
- Human rights are **indivisible** and **interdependent** – all the different human rights are important for human beings to flourish and participate in society.

❖ Where do Human rights do came from

Ans: Ideas about human rights have evolved over many centuries. But they achieved strong international support following the Holocaust and World War II. To protect future generations from a repeat of these horrors, the United Nations adopted the Universal Declaration of Human Rights (UDHR) in 1948 and invited states to sign and ratify it. For the first time, the Universal Declaration set out the fundamental rights and freedoms shared by all human beings.

❖ The universal declaration of Human rights:

Ans: In 1947, the UN established the Human Rights Commission to draft the UDHR. Representatives from a range of countries, including the UK, were involved in the drafting process. On 10 December 1948 the Declaration was adopted by the UN.

The preamble to the UDHR sets out the aims of the Declaration, namely to contribute to 'freedom, justice and peace in the world', to be achieved by universal recognition and respect for human rights. These rights are then defined in 30 articles which include civil, political, economic, social and cultural rights.

The main innovation of the UDHR is that it recognises a universal entitlement to rights applying to 'all members of the human family'. Before this the rights and freedoms of individuals were regarded as the domestic affair of the state within whose jurisdiction they fell. The traumatic events of the Second World War prompted the strong belief that this situation was no longer tenable, that universal protection was needed for all people, and that the international community should monitor more strongly what happens inside states.

❖ **How are human rights protected:**

Human rights declarations, conventions and laws are the starting point for making human rights real in people's lives. There are three different levels of human rights law – international, regional and domestic. These are enforced and monitored in different ways.

❖ **International law**

The UDHR is a declaration, and as such not legally binding. However it has inspired a range of international human rights instruments (often called conventions, covenants or treaties), such as the International Covenant on Civil and Political Rights, the United Nations Convention on the Rights of the Child (UNCRC), and the United Nations Convention against Torture. These are monitored by the United Nations. Countries that have signed and ratified these instruments have to submit regular reports (usually every 4–5 years) to show how they are implementing the rights in the treaty. The reports are examined by a committee of experts, which publishes its concerns and recommendations.

The UK has signed up to the following United Nations human rights treaties:

- The International Covenant on Civil and Political Rights
- The International Covenant on Economic, Social and Cultural Rights
- The Convention Against Torture
- The Convention on the Elimination of Discrimination Against Women
- The Convention on the Elimination of Racial Discrimination
- The Convention on the Rights of the Child
- The Convention on the Rights of Persons with Disabilities.

The international human rights treaties are not part of the UK's domestic law. This means that you cannot bring a case against the Government using one of these treaties in the UK courts. However, the UK has signed up to a mechanism under the Convention on the Elimination of Discrimination against Women which allows individual women in the UK to make complaints to a committee of experts at the UN if they believe their rights have been violated.

While all of the above treaties are relevant to schools, the most important international treaty for teachers to know about is the UNCRC

❖ **Regional Law**

At the same time that human rights were being developed within the UN system, regional groups of states started adopting home-grown treaties dealing with human rights. These include the European Convention on Human Rights, the African Charter on Human and Peoples' Rights, and the American Convention on Human Rights. The European Convention on Human Rights is arguably the most developed of these regional mechanisms. The Convention was agreed after the Second World War by the Council of Europe, which was set up to safeguard and defend human rights, democracy and the rule of law across its member states. The Council of Europe is not to be confused with the European Union. The Council of Europe represents 'Greater Europe' and currently has 47 member states including countries such as Russia, Turkey and the Ukraine. The Convention established a European Court of Human Rights based in Strasbourg, France.

The UK signed the European Convention on Human Rights in 1951; UK lawyers had been instrumental in the drafting process. Since 1966, anyone in the UK can complain to the European Court of Human Rights if they think their rights set out in the Convention have been breached. Now that the Human Rights Act 1998 has come into force (see below), human rights cases under the Convention can be heard in the UK courts, without having to go all the way to Strasbourg. The European Court will only hear cases once all domestic remedies have been exhausted i.e. they have gone through all possible UK courts. It is still possible for the European Court to consider a case even if the UK Supreme Court has passed judgment.

❖ **Domestic law**

Many countries also have their own domestic human rights legislation. In the UK, we have our own Human Rights Act 1998 which came into force on 2 October 2000, which enables UK Courts to consider the European Convention on Human Rights. The Human Rights Act 1998 allows people to use certain rights drawn from the European Convention on Human Rights in our domestic courts.

❖ **What human rights laws are most relevant to my teachings and students?**

The main conventions and laws that teachers must know about are the Human Rights Act 1998, as this imposes responsibilities on schools as public bodies, and enables the ECHR to be considered by UK courts.

The United Nations Convention on the Rights of the Child is also worth discussing with children and young people in schools, as it has specific relevance to children and young people in the UK, and to those working with children and young people in the UK. The UNCRC is a foundation for learning about and using other treaties that may be relevant to young people, such as the Convention on the Elimination of Discrimination against Women, the Convention on the Elimination of Racial Discrimination, and the Convention on the Rights of Persons with Disabilities.

❖ **What is human rights act 1998?**

The UK Government introduced The Human Rights Act 1998 with two main aims:

- To bring the human rights contained in the European Convention on Human Rights under the jurisdiction of UK courts. This makes it possible for people to

raise or claim their human rights within complaints and legal systems in the UK. The Human Rights Act 1998 therefore makes human rights more accessible – it is generally quicker, cheaper and more practical to bring your case before the UK courts.

- To bring about a new culture of respect for human rights in the UK. Human rights are not just about the law and taking cases to court. They are relevant to many of the decisions people make and the situations people experience on a daily basis. The Government intended the Human Rights Act 1998 to place human rights at the heart of the way public services are delivered.

The Human Rights Act 1998 has a real application in our everyday lives in the UK. It has been used to protect older people who are being abused in care homes, to ensure that disabled children are provided with transport to get to school, and to protect women from domestic violence.

The rights contained in the Human Rights Act 1998:

- Right to life
- Prohibition of torture
- Prohibition of slavery and forced labour
- Right to liberty and security
- Right to a fair trial
- No punishment without law
- Right to respect for private and family life
- Freedom of thought, conscience and religion
- Freedom of expression
- Freedom of assembly and association
- Right to marry
- Prohibition of discrimination
- Protection of property
- Right to education
- Right to free elections
- Abolition of the death penalty.

❖ **How human rights act 1998 works?**

The Human Rights Act 1998 works in four main ways:

1. All public authorities in the UK, including state schools, free schools and academies, must not act in a way that is incompatible with the rights contained in the European Convention on Human Rights.
2. Anyone who believes their rights have been breached by a public authority can bring a claim against that authority. This can be in the ordinary UK Courts, and through a range of other procedures including tribunals, hearings and complaints procedures. Anyone in the UK can bring a claim under the Human Rights Act 1998 – the Act is not limited to UK citizens.
3. Wherever possible, existing laws have to be interpreted and applied in a way that fits with the human rights contained in the Human Rights Act 1998. If it is impossible to interpret an existing piece of primary legislation in this way, the courts will issue what is known as a 'declaration of incompatibility'. This sends

a clear message to legislators that they should change the law to make it compatible with human rights. This sets up a 'democratic dialogue' between the branches of government, while ensuring that ultimately Parliament remains sovereign.

4. For all new Acts of Parliament, the Minister responsible for the Bill must make a statement confirming that it is compatible with the Human Rights Act 1998 (or explain why it is not). This means that human rights must be considered whilst developing legislation.

What is a public authority?

'Public authority' is not fully defined in the Human Rights Act, but should be interpreted broadly. It includes all central Government departments and local authorities, as well as state schools, NHS Trusts, prisons, the police, courts and tribunals.

❖ **How are human rights balanced?**

Not all the rights in the Human Rights Act 1998 are of the same type. Some rights are 'absolute', which means they can never be restricted by the state, while others are non-absolute - they can be restricted in certain circumstances.

There are three main types of rights:

Absolute rights cannot be interfered with or limited in any way. Examples of absolute rights are prohibition of torture (Article 3, European Convention on Human Rights) or Prohibition of slavery and forced labour (Article 4, European Convention on Human Rights).

Limited rights can be limited in specific circumstances, as set out in the Human Rights Act 1998. An example of a limited right is the right to liberty (Article 5, European Convention on Human Rights), which can be limited in certain cases, for example, where someone has been convicted of a crime by a court or is being detained because of mental health problems.

Qualified rights can be interfered with in order to protect the rights of other individuals or the public interest. The majority of rights in the Human Rights Act are qualified rights. Any interference with a qualified right must be:

- in pursuit of a legitimate aim, for example, to protect the rights of others or for the wider good
- lawful
- necessary
- Proportionate (appropriate and not excessive in the circumstances).

❖ **Can one individual sue another individual for breaching their human rights?**

Remember, the Act regulates the relationship between individuals and the state, and aims to protect individuals by making sure the Government and public bodies use their powers responsibly. So for example, you can't sue your neighbour for a breach

of human rights. But public authorities can use existing laws to ensure that one individual doesn't abuse the rights of another individual. If a woman was violently abused by her partner, she couldn't sue him for breaching her rights. However, the police would be responsible for protecting her human rights by using other laws to convict him for domestic violence, and if they knowingly failed to offer adequate protection this could be a breach of her human rights. Nor do private organisations come under its remit, except in certain circumstances such as where they provide services on behalf of a public authority.

❖ **If human rights cannot be taken away, then how come there are human rights abuses happening all over the world?**

The fact that we all have human rights does not mean they are not sometimes denied. Human rights abuses continue to occur all over the world, including in the UK. In order to make sure that human rights are made a reality in people's lives, those with rights need to know what they are and how to claim them. Those who are responsible for protecting and respecting people's rights need to know what their responsibilities are and uphold them.

❖ **Who has responsibility for young people rights?**

The responsibility for upholding human rights lies with the state. Human rights provide minimum standards below which states cannot go. States have a responsibility to ensure that everyone's rights are protected and fulfilled.

However, human rights are also about the relationships between all of us and when we all respect each other's rights, it helps everyone to get along and live together. If someone does not allow another person to exercise their human rights, they do not forfeit their own rights. For example, if a child is excluded from school because they have seriously hurt another child, they still have a right to an education.

- **Respect human rights:** States must refrain from interfering with our human rights or curtailing the enjoyment of human rights.
- **Protect human rights:** States must protect individuals and groups against human rights abuses.
- **Fulfil human rights:** States must take positive action to facilitate the enjoyment of basic human rights.

❖ **Why are human rights relevant to young people?**

Many people think human rights are remote, theoretical concepts. But they are important for our everyday lives, and should have meaning for students. Human rights help to ensure that all children have access to education, that they can express their own views and have their own beliefs, that they don't experience abuse at home, that they aren't forced to work, that they can freely practise a religion of their choosing, and much more. Human rights provide a framework to encourage young people to take part in our democratic society, and to discuss and debate decisions made by public bodies about their lives. The Human Rights Act 1998 can also act as a good practice checklist and decision making tool for public servants in their work.

❖ **Bibliography:**

The content for this notes has been taken from the following sources:

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