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Q3(b)

Human Rights are complex and contested social practice that organises relations between individuals, society and the State.

Comment

UPSC Civil Services Mains 2022 · PSIR GS 1 · 15 marks · Rights

Rights: Meaning and theories; different kinds of rights; concept of Human Rights.

Core demand of the question

- Human Rights are complex and contested social practice that organises relations between individuals, society and the State. Comment. (15 marks)

Revision summary

Human rights are a practice of claims and institutions, not only a declaration.

They organise what persons may demand of the state and of social custom.

Donnelly and Shue state the equal-claim structure; Shue's basic rights are the floor.

Relativism, class critique, and security exceptions make the practice contested.

Indian **Articles 17 and 21**, Maneka, and group-rights clauses show the three-cornered relation.

Introduction

Human rights are not only a list in a treaty. They are a social practice: claims, institutions, and struggles that sort what a person may demand of others, of society, and of the state. The practice is complex because the list is many-layered, and contested because cultures, classes, and states disagree on who is a subject and what is due.

Body

Practice, not a tablet

- **Jack Donnelly** treated human rights as a regime of equal and inalienable claims against standard threats, especially from the state.
- **Henry Shue** named basic rights to security, subsistence, and liberty as the floor without which other rights are empty.
- Practice includes petition, litigation, reporting, and movement politics, not only the 1948 Universal Declaration.
- **Easton's** allocation language fits: rights are values made authoritative when courts and administrations bind themselves.

Individuals, society, and the state

- Against the state, rights limit police, prison, and censorship. **Article 21** jurisprudence and **Maneka Gandhi v. Union of India (1978)** show that path in India.
- **Against society, rights reach custom:** **Article 17**, **Vishaka** guidelines, and the reading down of **Section 377** in **Navtej Singh Johar (2018)**.

- Society also supplies the associations, press, and professions that make rights usable, which **Gramsci** would call civil society.
- The individual is the formal subject. Group rights in **Articles 29 and 30**, and **Kymlicka's** multicultural argument, complicate that form.

Why contested

- **Herskovits** and cultural relativism asked whether a Western list travels. The 1993 Vienna Conference answered that rights are universal in claim and diverse in implementation.
- **Marx** called some rights the rights of the egoistic man of civil society. **Ambedkar** insisted that civil rights without social democracy are incomplete.
- Security states invoke public order. Developmental states invoke eminent domain. Both contest the scope of rights.
- **Foucault** notes that rights can coexist with disciplinary institutions. A habeas corpus win does not end the prison as a power.

Complexity

- **Generations of rights:** civil-political, economic-social, and collective-developmental, sit in one practice and often trade off in budgets.
- **National Human Rights Commission**, NHRC, and state commissions are statutory practice, not the Constitution's only door.
- International covenants bind unevenly. Domestic politics decides which clause is live.
- **So the statement is accurate:** human rights organise a three-cornered relation, and they do so as argument and institution, not as a finished morality.

Flow diagram

Human rights practice -> Individual claims
 Human rights practice -> Society custom civil society
 Human rights practice -> State limit and duty
 Human rights practice -> Contestation

Conclusion

Human rights are a contested social practice that binds individuals, society, and the state through claims, courts, and movements. Donnelly and Shue name the structure. Relativism, Marxism, and security politics name the contests. Indian Part III is the local working file.

Facts & figures

UDHR, 1948

Non-binding declaration that still frames the global rights vocabulary.

Maneka Gandhi (1978)

Read **Article 21** as due process of fairness, expanding personal liberty against the state.

Vienna, 1993

World conference that affirmed universality of human rights with room for national particularity in form.

Article 17

Abolition of untouchability: a right against society as well as against the state.

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