

# Human Rights Law

---

*KSLU LL.B. — Complete Exam-Ready Study Bundle (All Five Units)*

KSLU LL.B. Study Bundle

**Medha-Academy**

[www.medha-academy.in](http://www.medha-academy.in)

Notes Version: **v2.2**

June 2026

## Medha-Academy.in · KSLU LL.B. · Complete Notes for All Five Units



**Read this first page, then go to your unit.** This single file holds the whole subject: how to use the notes, the rules that win marks, and all five units of content. Everything is in plain English, every Latin maxim is translated in [brackets], and every topic is built backwards from the real exam questions.

### How to Use These Notes

**What this is.** A complete, exam-focused bundle covering all five units of KSLU Human Rights Law. Every topic is built from one question: *what will the examiner ask, and how do I score full marks?* High-frequency questions get the most space; the years listed under each question tell you where to spend revision time.



**Who it is for.** The first-time learner (understand before memorising), the revision student (fast high-yield recall), and the last-week crammer (which questions repeat and how to answer them). Each unit serves all three.

**What is inside every topic** — the same seven blocks, in the same order, so you always know where to look:

Block	Its job	The mark it earns
<b>Previous Year Questions</b>	Real questions + years asked	Tells you what to prepare and how often it repeats
<b>The Hook</b>	A true story / landmark-case opener	Makes it memorable; gives a strong opening line
<b>Jurist Quotes</b>	Exact quotable definitions	Examiners reward precise, attributed definitions
<b>In Simple Terms</b>	Plain-English translation	Ensures you <i>understand</i> , not just memorise
<b>The Visual (chart)</b>	Maps the topic structure	Recall and structure the whole answer at a glance
<b>Case Laws</b>	Landmark judgments + one-line ratio	Case names with years are pure marks
 <b>Blueprint Tracker +  Risk Alert</b>	Answer plan + applied IRAC problem	Converts knowledge into a written, scoring answer

Each unit closes with a **Quick Revision & Case Law Table** for the final hour.

**The 4-step study plan.** (1) *Read the questions first* — the PYQ box tells your brain what to look for. (2) *Understand, then memorise* — read the Hook and simple-terms explanation, then learn the quotes and case names. (3) *Trace the chart from memory* — if you can redraw it, you can structure the answer. (4) *Rehearse the Tracker and one Risk Alert* — this turns knowledge into marks.

**The two answer tools, in brief.** The  **16-Mark Essay Blueprint Tracker** breaks every long answer into ordered stages — an opening *Hook + Roadmap*, middle stages carrying the scoring core (definitions, theories, the comparison the examiner is really testing), and a final *Verdict* with a leading case. Structure alone lifts an average answer into a top one. The  **Fact-Pattern Risk Alert** trains the “decide the case” questions using **IRAC** — **I**ssue (the crisp legal question), **R**ule (the article/principle/leading case), **A**alysis (apply the rule to *these* facts, address the decoy and any defence), **C**onclusion (a definite verdict with remedy).

# The 10 Rules That Win Marks

---

These instructions repeat across every unit, so they are stated once here. Apply them to every answer.

1. **Lead with a definition + roadmap.** Open each long answer with a one-line definition and tell the examiner the route your answer will take.
2. **Follow the Blueprint Tracker** for that topic, stage by stage — structure is itself worth marks.
3. **Name the case AND the year** every time (e.g. *Maneka Gandhi v. Uoi (1978)*). Precision earns marks; vague references do not.
4. **Quote the jurist or the article** exactly where the notes give it — attributed definitions score higher than paraphrase.
5. **Translate every Latin maxim in [brackets]** immediately — e.g. *opinio juris* [the belief that a practice is legally binding].
6. **For problem questions, use the four IRAC headings** clearly — Issue, Rule, Analysis, Conclusion — and spot the planted “decoy” fact the Risk Alert warns about.
7. **Always give a definite verdict.** End a problem with a clear yes/no and the remedy; never leave it open.
8. **Use the chart’s structure** to organise the body of the answer, even though you write in prose.
9. **Close with a short, confident conclusion** — one or two lines that state the settled position.
10. **Manage time** so no high-mark question is left unwritten; a planned answer is faster than a jumbled one.

**Disclaimer.** *These notes are a study aid, not a substitute for the bare Acts, conventions and prescribed textbooks. Cross-check article and section numbers against the official text; case positions may have developed since writing. © Medha-Academy.in · KSLU LL.B. · For personal academic use.*



# Human Rights Law – Unit I Study Notes

---

Jurisprudence, Nature, Definition & Origin · Theories · Classification · Sources · International Bill of Human Rights

---

## Table of Contents

---

1. Origin, Evolution & Development of Human Rights
  2. Meaning, Definition & Nature of Human Rights
  3. Theories of Human Rights
  4. Classification / Kinds of Human Rights
  5. Sources of International Human Rights Law
  6. International Bill of Human Rights & Universalisation
  7. Quick Revision & Case Law Table
- 

## 1. Origin, Evolution & Development of Human Rights

---

### Previous Year Questions

- **[16M]** Trace the origin, evolution and development of Human Rights. (June 2011, Jan 2012, June 2012, Dec 2012, June 2014, Dec 2019, Nov/Dec 2020, Mar/Apr 2021, Mar 2022, Apr/May 2022, Oct/Nov 2022, Apr 2023, Aug/Sept 2024, Jan/Feb 2025, June/July 2025, Jan/Feb 2026) — **the single most repeated long question in Unit I.**
- **[Short Note]** Universalisation of Human Rights (Jun 2011); Magna Carta / milestone documents (asked within the main question).

### The Hook

In **539 BCE**, the Persian king **Cyrus the Great** captured **Babylon** — and instead of massacring the population, he freed the slaves, allowed every people to follow their own

religion, and proclaimed it on a baked-clay drum. That object, the **Cyrus Cylinder**, is today called by the United Nations the world's *first charter of human rights*. From a clay tablet in Babylon to the marble halls of the UN in 1948, the story of human rights is one long push-back of ordinary people against the abuse of power. Unit I begins here: rights were never gifted by kings — they were *won*, crisis by crisis.

## What “Origin & Development” Means

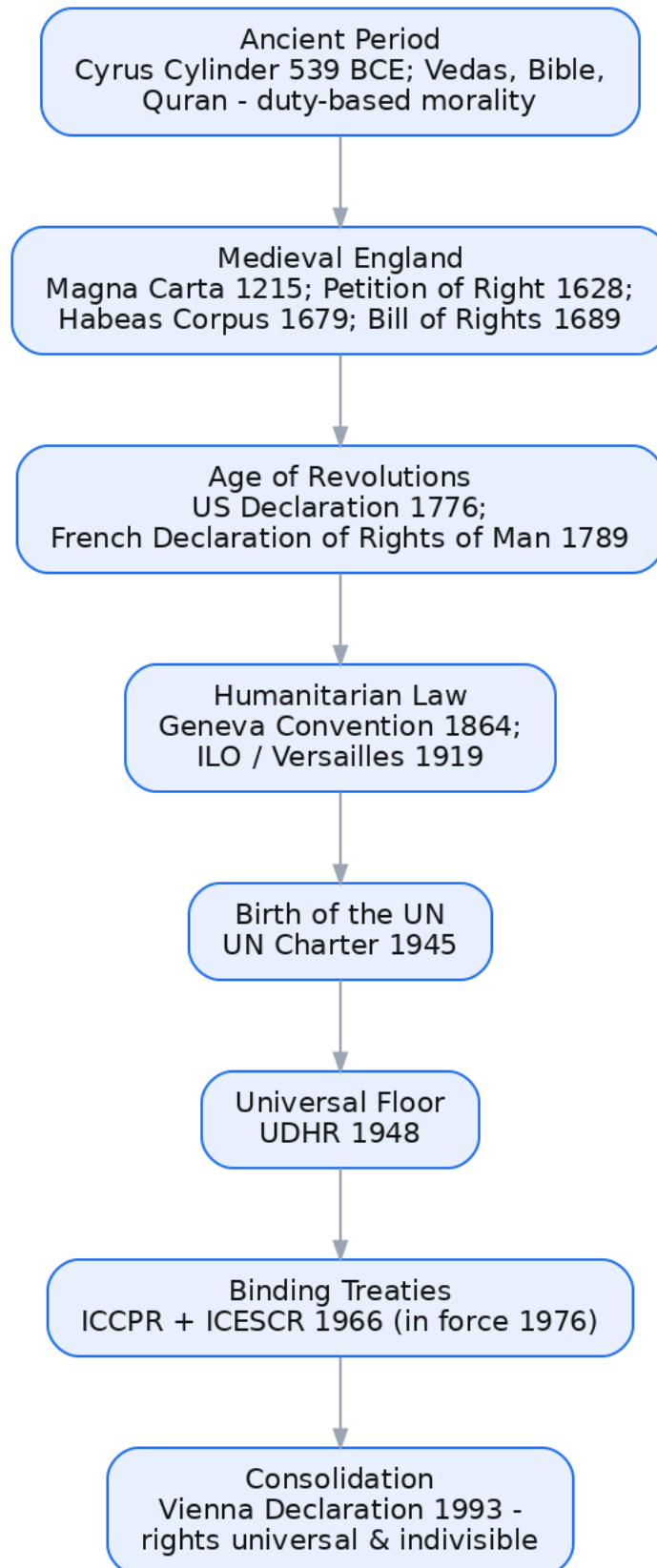
Human rights did not appear suddenly on 10 December 1948. They **evolved in three broad phases** — first as a moral *idea* in religion and philosophy, then as *national* charters inside individual countries, and finally as a binding *international* system after two World Wars. Each major document is the legal scar left by a past atrocity.

**Justice V.R. Krishna Iyer:** “The history of human rights is the history of human suffering.”

**In Simple Terms:** Every right on paper today was paid for by some past tragedy — slavery produced abolition, war produced the Geneva Conventions, the Holocaust produced the UDHR. Learn the *cause* behind each milestone, not just the date.

## The Stages of Development (write these in the exam)

### The Visual



Two anchors to remember: **1215 Magna Carta** (first time a King was made answerable to law) and **1948 UDHR** (first time the whole world agreed on a common standard).

## Case Laws / Authorities

- **Cyrus Cylinder (539 BCE):** recognised by the UN as the first charter of liberties — freedom of religion and abolition of slavery.
- **Magna Carta (1215):** “the King is also under the law” — root of the rule of law and due process.
- **Universal Declaration of Human Rights (1948):** the moral culmination of the entire evolution; a “common standard of achievement for all peoples.”

### ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1 → Hook + Roadmap:** Open with the Cyrus Cylinder and Krishna Iyer’s “history of suffering”; tell the examiner you will trace the development in three phases.
- **STAGE 2 → Phase Mapping:** Frame the growth as **Idea → National → International** (religion/philosophy → English & revolutionary charters → UN system).
- **STAGE 3 → Chronology Sprint:** Walk the chart — Cyrus 539 BCE → Magna Carta 1215 → Petition of Right 1628 → Bill of Rights 1689 → US 1776 → French 1789 → Geneva 1864 → UN Charter 1945 → UDHR 1948 → ICCPR/ICESCR 1966 → Vienna 1993. Give each one line of significance.
- **STAGE 4 → Cause-and-Effect:** Stress that each document answered a specific abuse (tyranny, slavery, war, genocide).
- **STAGE 5 → Verdict:** Human rights are a dynamic, struggle-driven body of law that matured from a clay cylinder into the UN system — rights are won, not gifted.

### ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** An examiner gives a jumbled list — “UDHR, Magna Carta, Cyrus Cylinder, French Declaration” — and asks you to arrange them and explain why each is a landmark in the growth of human rights.

- **I — ISSUE:** Can the candidate place each instrument in correct chronological order and link it to the specific right it created?
- **R — RULE:** The three-phase model (Idea → National → International) plus the milestone timeline; Krishna Iyer’s “history of suffering” as the unifying thread.
- **A — ANALYSIS:** For each document give one date + one contribution (Cyrus 539 BCE = first charter; Magna Carta 1215 = King bound by law; French 1789 = Liberty/Equality/Fraternity; UDHR 1948 = universal floor). Show the atrocity behind each.
- **C — CONCLUSION:** Correct order is Cyrus (539 BCE) → Magna Carta (1215) → French Declaration (1789) → UDHR (1948); each marks a leap from local privilege to universal right.

## 2. Meaning, Definition & Nature of Human Rights

### Previous Year Questions

- **[16M]** Define Human Rights. What are Human Rights? Explain their nature and characteristics. (June 2011, Jan 2012, June 2012, June 2014, June/July 2016, June/July 2019, Dec 2019, Oct/Nov 2021, Oct/Nov 2022, Apr 2023, Aug/Sept 2024, Jan/Feb 2025)
- **[16M]** Explain the Nature of Human Rights and Customary International Law regarding Human Rights. (June/July 2025, Jan/Feb 2026)
- **[Short Note]** Define Human Rights / Note on Human Rights (Mar 2022, Jan 2012); Nature of Human Rights (June 2025); Customary International Law and Human Rights (Jan 2026).

### The Hook

A **baby born today in a hospital** cannot speak, work, vote, or own a single rupee. Yet from the moment she draws her first breath she has a right to be fed, named, kept safe, and never sold. Nobody in that delivery room *granted* her these rights — she holds them simply because she is human. That is the entire idea of human rights: claims that travel with the *person*, not the passport, the property, or the permission of any State.

## What are Human Rights?

Human rights are the **minimum claims** every person holds **by virtue of being human**, against the State and other authorities, which are necessary to live a life of dignity. The State can only *protect* or *violate* them — it cannot *create* or *abolish* them.

**Justice Durga Das Basu:** *“Human rights are those minimal rights which every individual must have against the State or other public authority by virtue of his being a member of the human family, irrespective of any other consideration.”*

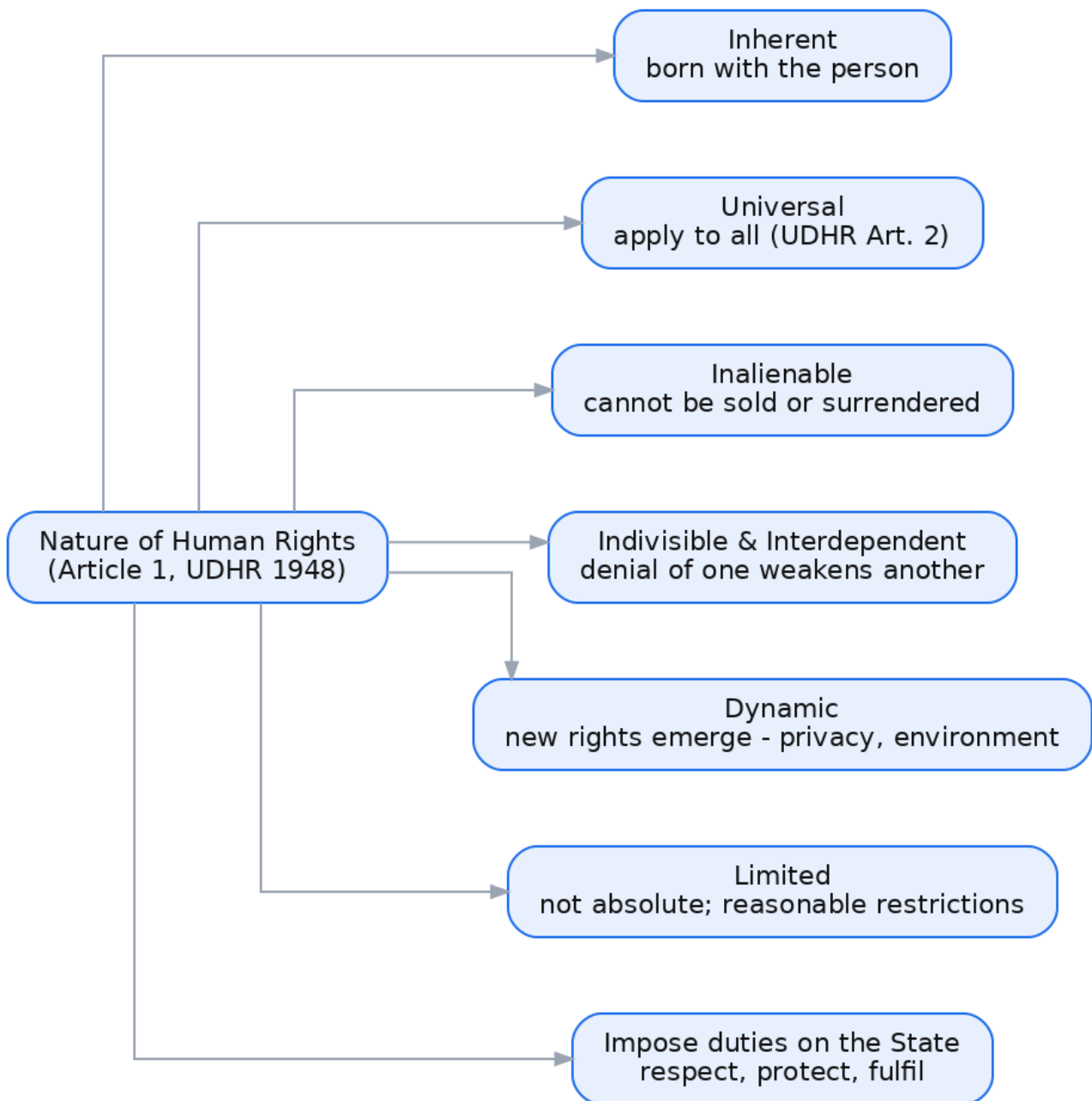
**United Nations (1987):** *“Rights inherent in our nature and without which we cannot live as human beings.”*

**Section 2(1)(d), Protection of Human Rights Act, 1993:** *rights relating to life, liberty, equality and dignity of the individual, guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.*

**In Simple Terms:** You cannot earn a human right and you cannot lose it for your caste, gender, religion or wealth. Take the right away and the person stops *living* as a human and merely *survives* as a thing.

## Nature & Characteristics of Human Rights

### The Visual



### Customary International Law and Human Rights (linked sub-topic)

A separate, frequently-asked angle. **Customary international law** is unwritten law formed by **State practice + *opinio juris*** [the belief that the practice is legally obligatory] (Article 38(1)(b), ICJ Statute). Core human rights — the bans on **torture, slavery and genocide** — have hardened into custom and bind even States that signed no treaty. The very highest of these are ***jus cogens*** [peremptory norms] (Article 53, VCLT 1969) from which **no** derogation is ever allowed.

**In Simple Terms:** Some rights are now so universally accepted that a country cannot escape them by saying “I never signed anything.”

## Case Laws

- **Francis Coralie Mullin v. UT Delhi (1981) 1 SCC 608:** the right to life means the right to live with **human dignity**, not mere animal existence — the dignity floor of the definition.
- **Filartiga v. Pena-Irala (US, 1980):** prohibition of torture is **customary international law**, binding all States.
- **North Sea Continental Shelf Cases (ICJ, 1969):** the two-element test (State practice + *opinio juris*) for when a norm becomes custom.
- **Justice K.S. Puttaswamy v. Uoi (2017):** confirms the **dynamic** nature — privacy read in as a new dimension of Article 21.

### ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1 → Hook + Definition:** Open with the new-born child image; give Basu’s definition as the spine of the answer.
- **STAGE 2 → Stack the Definitions:** Layer Basu → UN 1987 → Section 2(1)(d) PHRA 1993 to show moral + legal sources agree.
- **STAGE 3 → Characteristics:** Walk the seven features from the chart (*inherent, universal, inalienable, indivisible, dynamic, limited, duty-imposing*) with a one-line example each.
- **STAGE 4 → Customary Layer (if asked):** Add State practice + *opinio juris*; bans on torture/slavery/genocide as custom; *jus cogens*; *Filartiga* and *North Sea*.
- **STAGE 5 → Verdict:** Human rights are the moral and legal floor of human existence — *inherent, universal and inalienable* — and the State only protects or violates, never creates them.

### ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** A prisoner is given food, water and a cell but is denied all human contact, books and dignity. The State argues, “His right to life is satisfied — he is alive.” Separately, State X, which signed no treaty, tortures detainees and says “nothing binds us.” Are either correct?

- **I — ISSUE:** (a) Does “right to life / human rights” mean mere survival or dignified life? (b) Can a non-signatory State escape the ban on torture?
- **R — RULE:** Francis Coralie Mullin + Basu + Section 2(1)(d) PHRA (dignity); for (b), customary international law + jus cogens (Filartiga, North Sea two-element test).
- **A — ANALYSIS:** Bare survival without dignity violates the definition, so the “still alive” defence fails. For State X, torture is custom and jus cogens; absence of a treaty is irrelevant.
- **C — CONCLUSION:** Both defences fail — human rights guarantee dignity, not mere survival, and bind even non-signatory States.

## 3. Theories of Human Rights

### Previous Year Questions

- **[16M]** Explain the various theories of Human Rights (Natural Law, Positivist, Social Contract, Utilitarian, Marxist, Social Welfare, Equality). (June 2011, June 2014, June/July 2015, Oct/Nov 2021, Mar 2022, Oct/Nov 2022, Apr 2023, Aug/Sept 2024, Jan/Feb 2025, June/July 2025, Jan/Feb 2026)
- **[Short Note]** Theories of Human Rights / Natural Law Theory / Social Welfare Theory / Equality (Respect) Theory (Aug 2024, Apr 2023, Feb 2025, June 2025, Jun 2014, Jun 2015, Nov 2021).

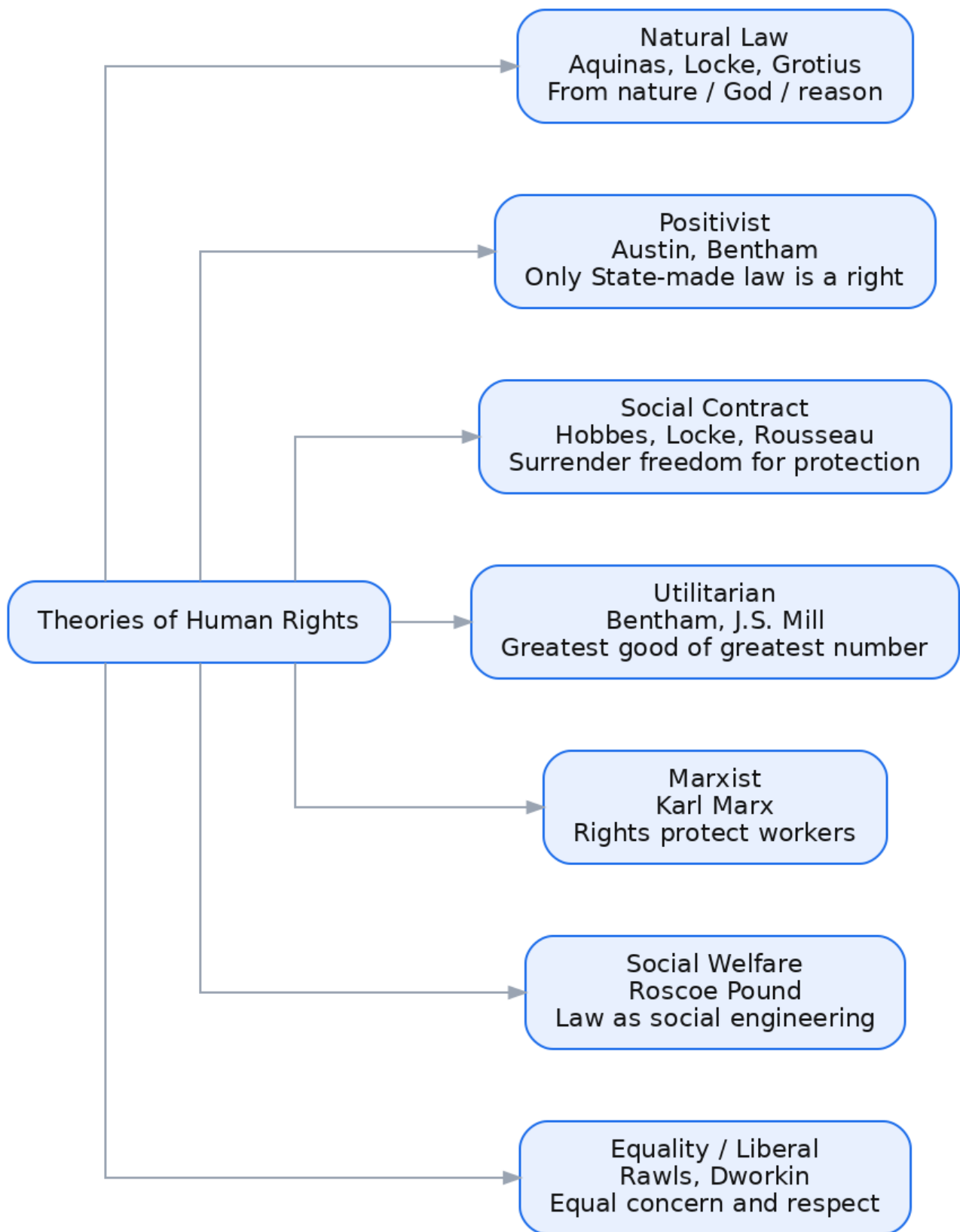
### The Hook

Imagine a king who asks his jurist a blunt question: “Why should I obey rights at all? I am the one who makes the laws!” For three centuries, different thinkers gave very different answers — Locke pointed to nature, Bentham to the statute book, Marx to the working class, Rawls to equality. Each answer became a **theory of human rights**. Each is a separate ladder reaching the same rooftop: human dignity.

## What “Theory” Means

A theory of human rights answers one question — **where do rights come from?** The *source* of a right decides how strong it is and who is bound to protect it.

## The Visual



## The Theories Explained

- 1. Natural Law Theory (Aquinas, Locke, Grotius):** rights flow from human nature, reason or God; they exist *before* and *above* the State. Basis of UDHR Article 1 (“born free and equal”). *Criticism:* vague and hard to enforce.
- 2. Positivist / Legal Theory (Austin, Bentham):** a right exists *only* when the State enacts it. Bentham dismissed natural rights as “**nonsense upon stilts.**” *Criticism:* lets a tyrant “legalise” abuse.
- 3. Social Contract Theory (Hobbes, Locke, Rousseau):** people surrender some freedom to the State in return for protection of the rest. Echoed in the Preamble of the Indian Constitution. Rousseau: “*Man is born free; and everywhere he is in chains.*”
- 4. Utilitarian Theory (Bentham, J.S. Mill):** law should secure the *greatest happiness of the greatest number*; influence on the Directive Principles (Part IV).
- 5. Marxist Theory (Karl Marx):** rights are tools to protect the working class from exploitation by capital; inspiration for the ICESCR and the right to work.
- 6. Social Welfare Theory (Roscoe Pound):** law is “**social engineering**” that balances competing social interests; reflected in the reasonable restrictions of Article 19(2).
- 7. Equality / Liberal Theory (Rawls, Dworkin):** every person is owed **equal concern and respect**; reflected in Article 14 and *NALSA v. Uol.*

**In Simple Terms:** No single theory is complete. Modern human rights are a *hybrid* — natural law as the source, positive law as the shield, social welfare as the balance, and equality and dignity as the goal.

## Case Laws

- ***NALSA v. Union of India (2014)*:** recognised the “third gender,” applying the **Equality/Liberal theory** (equal concern and respect).
- ***Maneka Gandhi v. Union of India (1978)*:** dignity and fairness read into Article 21 — natural-law thinking inside positive law.
- ***Kesavananda Bharati v. State of Kerala (1973)*:** the “basic structure” protects core rights even from amendment — a natural-law limit on State power.

## ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1** → **Reframe the Question:** Clarify that “theory” asks **where rights come from**, and the source decides their strength.
- **STAGE 2** → **Natural Law vs Positivism (most space):** Set them as the central debate — nature/reason (Locke; UDHR Art. 1) vs State enactment (Bentham’s “nonsense upon stilts”). Give each a criticism.
- **STAGE 3** → **The Other Schools:** Social Contract (Rousseau; Preamble), Utilitarian (DPSP), Marxist (ICESCR), Social Welfare (Pound; Art. 19(2)), Equality (Rawls/Dworkin; Art. 14).
- **STAGE 4** → **Indian Echo:** Tie each theory to a provision/case (NALSA, Maneka Gandhi, Kesavananda).
- **STAGE 5** → **Verdict:** No theory alone suffices; modern human rights are a hybrid — natural-law source, positivist shield, welfare balance, equality goal.

## ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** A government passes a validly enacted law stripping a minority of voting rights. Officials argue, “It is a proper statute, therefore it is valid law.” A jurist objects on theory grounds. Which theory supports each side, and who prevails?

- **I — ISSUE:** Can a validly enacted but unjust law create or destroy human rights?
- **R — RULE:** Positivism (Austin/Bentham) validates any enacted law; Natural Law (Locke/Aquinas) says an unjust law is no true law; Equality theory (NALSA) demands equal concern and respect.
- **A — ANALYSIS:** The government relies on positivism, but the deprivation attacks inherent, universal rights; natural-law and equality theory override mere enactment, and NALSA/Kesavananda show Indian courts adopt the dignity-first hybrid.
- **C — CONCLUSION:** The unjust law fails; a tyrant cannot “legalise” abuse — natural-law and equality limits prevail over pure positivism.

# 4. Classification / Kinds of Human Rights

## Previous Year Questions

- **[16M]** Explain the different kinds / classification of Human Rights. (June 2012, June/July 2016, Dec 2016, Oct/Nov 2021, Apr/May 2022, Oct/Nov 2022, Apr 2023, Aug/Sept 2024, Jan/Feb 2025, Jan/Feb 2026)
- **[Short Note]** Kinds / Classification of Human Rights (Nov 2022, Feb 2025, Jan 2026, Jun 2016, Dec 2016, Apr 2022).

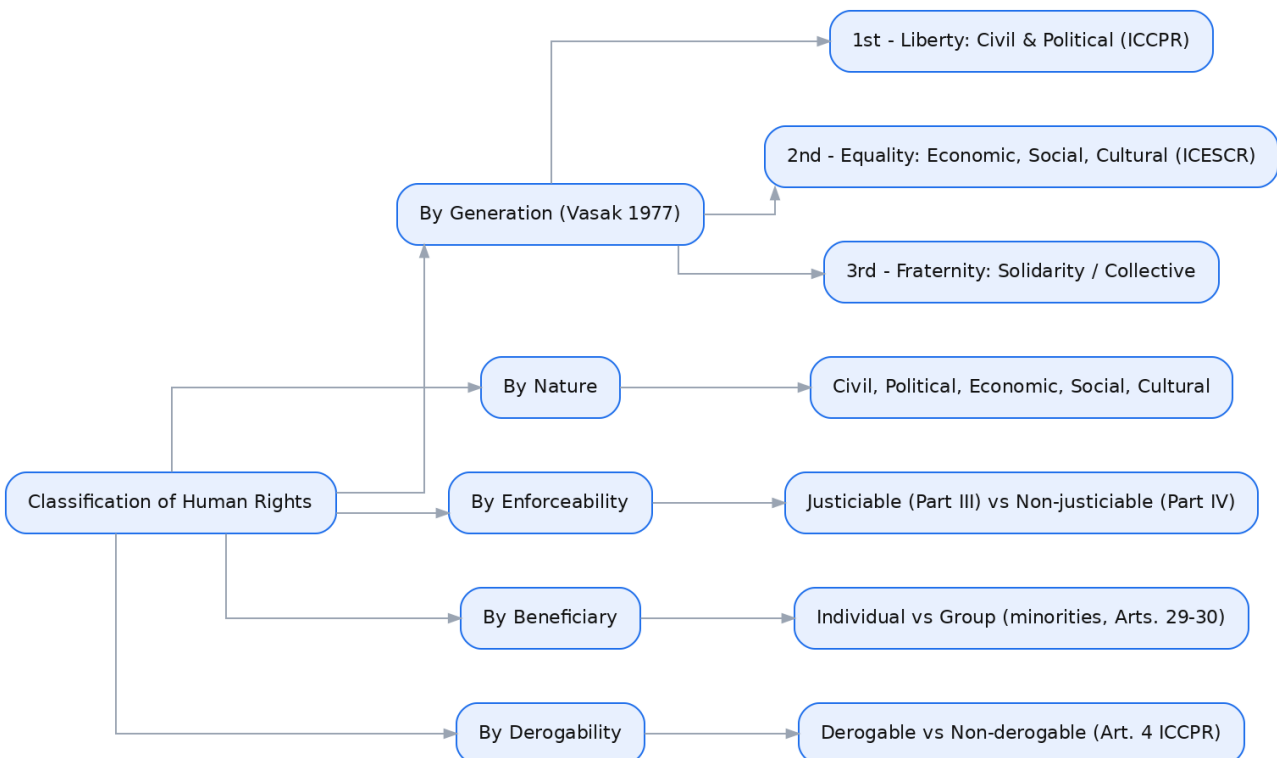
## The Hook

In **1977**, the **French jurist Karel Vasak** borrowed the rallying cry of the French Revolution — *Liberté, Égalité, Fraternité* — and turned it into the most famous classification in human rights law: **three generations** of rights. Liberty became the first generation, equality the second, and fraternity (solidarity) the third. One revolutionary slogan still organises the whole subject.

## Why We Classify

We classify rights so we can **study, enforce and prioritise** them — especially in emergencies, when some rights may be suspended and others can never be.

## The Visual



## The Classifications Explained

**A. Vasak's Three Generations (1977):** First — *Liberty* (civil and political rights; ICCPR; e.g. life, vote, speech, fair trial). Second — *Equality* (economic, social, cultural rights; ICESCR; e.g. work, education, health). Third — *Fraternity* (solidarity rights; e.g. peace, clean environment, development, self-determination).

**B. By Nature:** civil, political, economic, social and cultural rights.

**C. By Enforceability:** *justiciable* (court-enforceable, like Fundamental Rights, Part III) versus *non-justiciable* (moral/directive, like the Directive Principles, Part IV).

**D. By Beneficiary:** *individual* rights versus *group* rights (e.g. minority rights under Articles 29–30).

**E. By Derogability:** *derogable* rights (suspendable in emergency) versus *non-derogable* rights (Article 4 ICCPR — right to life, freedom from torture, freedom from slavery — never suspendable).

**In Simple Terms:** Classification helps study, not ranking — a right to vote is meaningless to a starving citizen, so no generation is “higher” than another.

## Case Laws / Authorities

- **Vienna Declaration, 1993, Para 5:** “All human rights are universal, indivisible, interdependent and interrelated” — rejects any hierarchy among generations.
- **Article 4, ICCPR:** identifies the non-derogable core that survives even emergencies.
- **Olga Tellis v. Bombay Municipal Corporation (1985):** socio-economic dimension (livelihood, shelter) read into the civil right to life — proof of indivisibility.

### ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1 → Hook + Purpose:** Open with Vasak and the French slogan; state that we classify to study, enforce and prioritise.
- **STAGE 2 → Three Generations (most space):** Liberty (ICCPR), Equality (ICESCR), Fraternity (solidarity) with examples and colour tags.
- **STAGE 3 → Other Bases:** by nature, enforceability (*justiciable/non-justiciable*), beneficiary (*individual/group*), derogability (Art. 4 ICCPR).
- **STAGE 4 → Indivisibility:** Use Vienna 1993 and Olga Tellis to show no generation outranks another.
- **STAGE 5 → Verdict:** Classification is a study tool, not a hierarchy — all rights are interdependent.

### ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** During a declared emergency, a government suspends all rights — including freedom from torture and the right to life — arguing that “an emergency lets us pause every right.” Is this lawful?

- **I — ISSUE:** Can every human right be suspended in an emergency, or are some non-derogable?
- **R — RULE:** Classification by derogability — Article 4 ICCPR lists **non-derogable** rights (life, freedom from torture, slavery) that survive even emergencies; Vienna 1993 confirms indivisibility.
- **A — ANALYSIS:** Suspending some procedural/derogable rights may be permissible, but torture and the right to life are non-derogable; the blanket suspension crosses the line.
- **C — CONCLUSION:** Unlawful — a government may limit derogable rights in emergency, but the non-derogable core can never be suspended.

## 5. Sources of International Human Rights Law

### Previous Year Questions

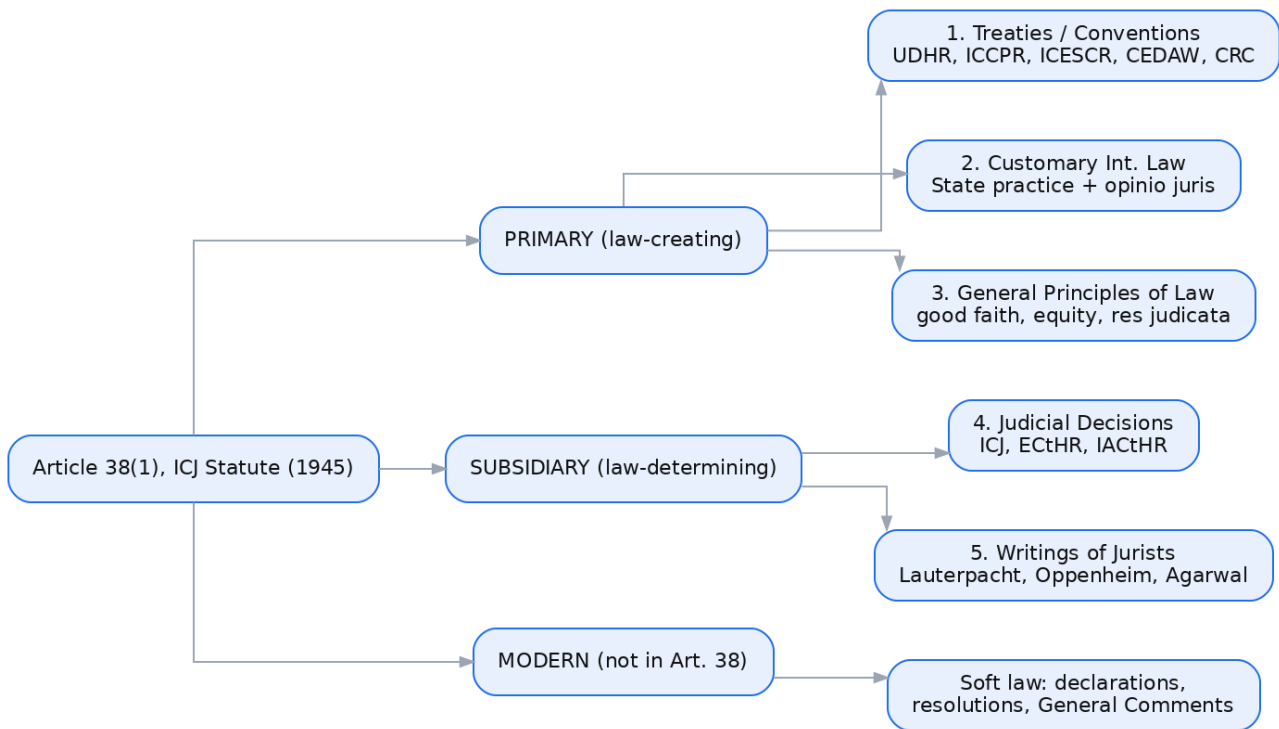
- **[16M]** What are the sources of International Human Rights Law? Discuss with reference to Article 38(1) of the ICJ Statute. (June/July 2015, June/July 2016, Dec 2016, Oct/Nov 2022, Aug/Sept 2024, Jan/Feb 2025)
- **[Short Note]** Sources of International Human Rights Law (Aug 2024, Nov 2022, Feb 2025); Customary International Law (Jan 2026).

### The Hook

In **1945**, the lawyers building the new world order faced a simple but vital **question**: when a dispute arises, *where do we look up “the law”*? The answer was written into **Article 38(1) of the Statute of the International Court of Justice** — still the global “library catalogue” of international law, and of human rights law inside it. Master this one provision and the answer writes itself.

## Article 38(1) — The Source Map

### The Visual



### The Sources Explained

**1. Treaties / Conventions:** written agreements between States creating expressly recognised rights — UDHR (declaration), ICCPR, ICESCR, CEDAW, CRC, CAT, CERD. The strongest, clearest source.

**2. Customary International Law:** the oldest source. Needs two elements — **State practice** (uniform, constant, general) plus **opinio juris** [the belief that the practice is legally binding]. Bans on torture, slavery and genocide are now customary.

**3. General Principles of Law:** principles common to most national systems — good faith, equity, *res judicata* [a matter already decided] — used to fill gaps and prevent *non-liquet* [a court refusing to decide for want of law].

**4. Judicial Decisions (subsidiary):** rulings of the ICJ, the European Court of Human Rights and the Inter-American Court — highly persuasive though not strict precedent.

**5. Writings of Eminent Jurists (subsidiary):** scholarly works (Lauterpacht, Oppenheim, H.O. Agarwal) as evidence of the law.

**6. Modern source — Soft Law:** UN declarations, General Assembly resolutions and treaty-body General Comments that evidence *opinio juris*.

**In Simple Terms:** When a State asks “where is this rule written?”, point to five places in order of strength — treaties first, custom next, then general principles, with judicial decisions and jurists’ writings as supporting evidence.

## Case Laws

- **Filartiga v. Pena-Irala (US, 1980):** torture is customary international law — a source binding on all.
- **North Sea Continental Shelf Cases (ICJ, 1969):** practice must be “extensive and virtually uniform” *plus opinio juris* before a habit becomes custom.
- **Barcelona Traction (ICJ, 1970):** some human rights obligations are *erga omnes* [owed towards all].
- **Customary status of the UDHR:** decades of practice have given the UDHR’s core rights customary force, binding even non-signatories.

### ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1 → Anchor on Article 38(1):** State that the authoritative list is Art. 38(1) ICJ Statute, split into **primary** (treaties, custom, general principles) and **subsidiary** (judicial decisions, jurists). Map the chart.
- **STAGE 2 → Treaties:** Written agreements creating express rights (UDHR, ICCPR, ICESCR, CEDAW, CRC) — the strongest source.
- **STAGE 3 → Custom (most space):** Two elements — uniform general State practice + *opinio juris* [belief it is legally binding]. Prove with North Sea (extensive + uniform) and Filartiga (torture is custom).
- **STAGE 4 → Remaining + Modern:** General principles (good faith, *res judicata* — prevent non-liquet); subsidiary means (judicial decisions, jurists); modern soft law (declarations, resolutions, General Comments).
- **STAGE 5 → Verdict:** Sources are not rigidly ranked but work together; treaties and custom carry the greatest weight, and core rights bind even non-signatories.

### ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** In a dispute, State A argues, “There is no treaty binding us on this point, so there is no international human rights law that limits us at all.” Counsel for the victim disagrees. Who is right?

- **I — ISSUE:** Are treaties the only source of international human rights law?
- **R — RULE:** Article 38(1) ICJ Statute lists five sources; custom + general principles also bind, and *jus cogens* binds absolutely.
- **A — ANALYSIS:** Absence of a treaty does not end the inquiry — if the norm is customary (*Filartiga*; North Sea two-element test) or a general principle, State A is still bound.
- **C — CONCLUSION:** State A is wrong; international human rights law rests on a five-source base, and custom fills any treaty gap.

## 6. International Bill of Human Rights & Universalisation

### Previous Year Questions

- **[16M]** Write a note on the International Bill of Human Rights. / Discuss the Universalisation of Human Rights. (June 2011, June/July 2016, Mar 2022, Oct/Nov 2022, June/July 2025)
- **[Short Note]** International Bill of Human Rights (Mar 2022, June 2025, Jun 2016, Nov 2022); Universalisation of Human Rights (Jun 2011).

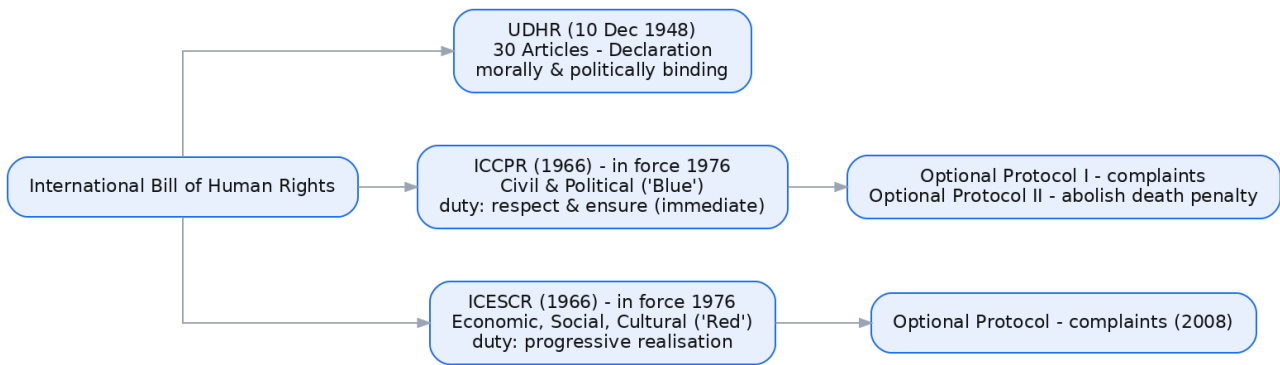
### The Hook

On a December day in **1948**, **Eleanor Roosevelt held up the freshly adopted Universal Declaration** and called it the “*Magna Carta of all mankind*.” But she knew a declaration cannot be sued upon — it is a promise, not yet a law. So the world spent **eighteen more years** turning that moral promise into two binding treaties. Together, the declaration and its two covenants are known as the **International Bill of Human Rights**.

### What is the “International Bill”?

The International Bill of Human Rights is **not one document** but a **bundle of three** — one moral mother and two binding children — plus their Optional Protocols.

## The Visual



## The Three Instruments

**1. Universal Declaration of Human Rights, 1948 (UDHR):** 30 Articles adopted by UNGA Resolution 217A(III) on 10 December 1948. A *declaration* — morally and politically binding, and now largely customary, but not originally a treaty.

**2. International Covenant on Civil and Political Rights, 1966 (ICCPR):** binding treaty in force 23 March 1976. State duty is to **“respect and ensure”** these rights *immediately*.

**3. International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR):** binding treaty in force 3 January 1976. State duty is **“progressive realisation”** — to the maximum of available resources, but subject to a *minimum core* obligation and a duty of non-retrogression.

India **acceded** to the ICCPR and ICESCR on **10 April 1979** (technically *accession*, as India did not sign them first; “ratified 1979” is common exam shorthand).

**Eleanor Roosevelt:** *“The International Bill of Human Rights represents a milestone... a veritable Magna Carta marking mankind’s arrival at a vitally important phase.”*

## ICCPR vs ICESCR — the Key Contrast

Feature	ICCPR	ICESCR
Rights	Civil & Political	Economic, Social, Cultural
State duty	“Respect and ensure” — <b>immediate</b>	“Progressive realisation” — <b>gradual</b>
Examples	Life, liberty, fair trial, vote	Work, education, food, health
Monitoring body	Human Rights Committee	Committee on Economic, Social and Cultural Rights

## Universalisation (linked sub-topic)

**Universalisation** means the **same minimum rights apply to every person, in every country, at all times** (UDHR — a “common standard of achievement for all peoples”).

The live debate is **Universalism vs Cultural Relativism**: some Asian and Islamic states argued at the *Bangkok Declaration 1993* that culture should let them opt out, but the *Vienna Declaration 1993* settled it — culture can never justify denial of basic rights.

**In Simple Terms:** The UDHR speaks the *morality*; the ICCPR and ICESCR carry the *legality*. Universalisation does not demand uniformity — it demands a common floor of dignity below which no government may fall.

## Case Laws / Authorities

- **Vishaka v. State of Rajasthan (1997):** ratified covenants (CEDAW) read into Indian law where domestic law is silent — the Bill as an interpretive aid.
- **Justice K.S. Puttaswamy v. Uoi (2017):** international instruments used to enrich Article 21.
- **Vienna Declaration, 1993:** confirms rights are universal, indivisible, interdependent and interrelated — the answer to cultural relativism.

### ☰ 16-MARK ESSAY BLUEPRINT TRACKER

- **STAGE 1 → Hook + Definition:** Open with Eleanor Roosevelt’s “Magna Carta of mankind”; state that the Bill is a bundle of three, not one document.
- **STAGE 2 → The Three Instruments:** UDHR 1948 (declaration, moral), ICCPR 1966 (immediate duty), ICESCR 1966 (progressive realisation); note both in force 1976, India ratified 1979.
- **STAGE 3 → ICCPR vs ICESCR:** Use the contrast table — nature, duty, examples, monitoring body.
- **STAGE 4 → Universalisation:** Common floor for all; Universalism vs Cultural Relativism (Bangkok 1993 vs Vienna 1993); domestic use (Vishaka, Puttaswamy).
- **STAGE 5 → Verdict:** The Bill is the legal backbone of the global system — UDHR the morality, the two covenants the legality, universal yet not uniform.

## ⚠️ **FACT-PATTERN RISK ALERT**

**Scenario:** A State refuses to provide free primary education, arguing, “Education is in the ICESCR, which only requires progressive realisation, so we can delay it indefinitely.” Is this defence valid?

- **I — ISSUE:** Does “progressive realisation” under the ICESCR let a State delay socio-economic rights forever?
- **R — RULE:** ICESCR Article 2(1) — progressive realisation “to the maximum of available resources,” but subject to a **minimum core obligation** and a duty of **non-retrogression**; contrast ICCPR’s immediate duties.
- **A — ANALYSIS:** Total inaction is not “progress.” Basic primary education is part of the minimum core and is an immediate obligation; indefinite delay breaches it.
- **C — CONCLUSION:** The defence fails — progressive realisation permits gradual steps, not permanent inaction; the State must meet at least the minimum core.

## 7. Quick Revision & Case Law Table

### One-line memory hooks

- **Origin:** Idea → National → International. Cyrus 539 BCE → Magna Carta 1215 → French 1789 → UDHR 1948. Krishna Iyer: “history of suffering.”
- **Definition:** Basu (against the State, by being human) + UN 1987 + Sec 2(1)(d) PHRA. State protects/violates, never creates.
- **Nature:** Inherent, Universal, Inalienable, Indivisible, Dynamic, Limited, duty-imposing.
- **Theories:** Natural Law / Positivist (“nonsense upon stilts”) / Social Contract / Utilitarian / Marxist / Social Welfare (Pound) / Equality (Rawls, Dworkin).
- **Classification:** Vasak’s 3 generations — Liberty (ICCPR) / Equality (ICESCR) / Fraternity. Plus justiciable vs non-justiciable, derogable vs non-derogable (Art. 4 ICCPR).
- **Sources:** Article 38(1) — Treaties, Custom (practice + *opinio juris*), General Principles + Judicial decisions, Jurists + soft law.
- **Bill of HR:** UDHR 1948 (moral) + ICCPR 1966 (immediate) + ICESCR 1966 (progressive). Universalism vs Cultural Relativism — Vienna 1993 wins.

## Master Case List for Unit I

Case	Topic	One-line ratio
Cyrus Cylinder (539 BCE)	Origin	First charter of liberties — freedom of religion, end of slavery.
Magna Carta (1215)	Origin	The King is also under the law.
Francis Coralie Mullin v. UT Delhi (1981)	Definition / Nature	Right to life = life with human dignity, not mere survival.
Filartiga v. Pena-Irala (1980)	Nature / Sources	Prohibition of torture is customary international law.
North Sea Continental Shelf (1969)	Nature / Sources	Custom = extensive, uniform practice + <i>opinio juris</i> .
Barcelona Traction (1970)	Sources	Some HR obligations are <i>erga omnes</i> (owed to all).
NALSA v. Union of India (2014)	Theories	Equality/respect theory — recognises third gender.
Maneka Gandhi v. UoI (1978)	Theories / Nature	Fairness and dignity read into Article 21.
Kesavananda Bharati (1973)	Theories	Basic structure protects core rights from amendment.
Vienna Declaration (1993)	Classification / Universalisation	Rights are universal, indivisible, interdependent.
Olga Tellis v. Bombay MC (1985)	Classification	Livelihood/shelter read into right to life — indivisibility.
Vishaka v. State of Rajasthan (1997)	Bill of HR	Ratified covenants read into domestic law where silent.
Puttaswamy v. UoI (2017)	Nature / Bill	Dynamic nature — privacy as part of Article 21.

*End of Unit I. Next: Unit II — Universal Protection of Human Rights (UN Charter, UDHR, ICCPR, ICESCR & UN machinery).*

