

UNIT – V

Human Rights and Vulnerable Groups

Women • Children • Disabled • Tribals • Aged • Minorities

Human Rights Law and Practice

Unit Overview

This unit examines the special protection afforded to vulnerable groups under national and international law. Vulnerability arises from historical discrimination, physical or mental condition, age, or social position.

Groups covered:

- Women – CEDAW, domestic violence, workplace harassment, reproductive rights
- Children – CRC, child labour, juvenile justice, education
- Persons with Disabilities – CRPD, Rights of Persons with Disabilities Act 2016
- Tribals / Indigenous – Forest rights, self-determination, cultural rights
- Aged – Maintenance and welfare statutes
- Minorities – Cultural, educational and religious rights under Constitution

What You Will Learn

01 Women's Rights

International and national framework including landmark cases

02 Child Rights

CRC, child labour laws, juvenile justice and education rights

03 Disability Rights

CRPD and the Rights of Persons with Disabilities Act 2016

04 Tribal Rights

Constitutional protections, Forest Rights Act and key cases

05 Aged & Minorities

Maintenance laws and minority educational/cultural rights

06 Intersectionality

How multiple vulnerabilities compound and require special measures

Who Are Vulnerable Groups?

Vulnerable groups are those who, due to historical discrimination, physical or mental condition, age, gender, ethnicity or social status, face higher risk of human rights violations and require special measures of protection.

Special Measures

Affirmative action, protective legislation, specialised institutions and targeted policies are required.

Intersectionality

A tribal woman with disability faces compounded discrimination; law must address multiple axes.

International Basis

CEDAW, CRC, CRPD, UNDRIP and other instruments specifically protect these groups.

Constitutional Base

Arts 15(3), 15(4), 16(4), 46 and other provisions enable special provisions for women, children, SCs/STs.

International Framework for Women's Rights

CEDAW 1979

Convention on the Elimination of All Forms of Discrimination against Women – comprehensive bill of rights for women. India ratified with reservations.

Key Obligations

Eliminate discrimination in public and private life, modify social and cultural patterns, ensure equality in education, employment, health, marriage.

Optional Protocol

Allows individual complaints and inquiry procedure for grave systematic violations.

Beijing Platform

1995 – strategic objectives for women's empowerment; still a key soft-law reference.

WOMEN

National Law & Landmark Cases

Vishaka v. State of Rajasthan (1997)

Guidelines against sexual harassment at workplace drawn from CEDAW until legislation enacted.

Joseph Shine v. Union of India (2018)

Struck down adultery provision (s.497 IPC) as violative of equality and dignity of women.

Independent Thought v. Union of India (2017)

Exception to marital rape for girls aged 15–18 struck down; raised age of consent within marriage.

Domestic Violence Act 2005

Civil remedies for domestic violence; protection orders, residence orders, monetary relief.

POSH Act 2013

Statutory framework for prevention of sexual harassment at workplace following Vishaka.

Maternity Benefit Act (amended)

Extended maternity leave and other benefits.

Rights of the Child – Framework

CRC 1989

Most widely ratified human rights treaty. Four core principles: non-discrimination, best interests of the child, right to life/survival/development, respect for views of the child.

Art 21A & RTE Act 2009

Free and compulsory education for children aged 6–14 as a fundamental right.

Child Labour (Prohibition) Act

Prohibits employment of children below 14 in all occupations; adolescents 14–18 in hazardous occupations.

JJ Act 2015

Juvenile Justice (Care and Protection of Children) Act – comprehensive framework for children in need of care and children in conflict with law.

POCSO Act 2012

Protection of Children from Sexual Offences – special law with child-friendly procedures and stringent punishments.

Landmark

M.C. Mehta v. State of Tamil Nadu (1996) – directions on child labour; Bandhua Mukti Morcha cases on bonded child labour.

Rights of Persons with Disabilities

CRPD 2006 is the first human rights treaty of the 21st century. India ratified it. The Rights of Persons with Disabilities Act, 2016 replaced the 1995 Act and aligns domestic law with CRPD.

Key Principles (CRPD)

Respect for dignity, non-discrimination, full participation, respect for difference, equality of opportunity, accessibility, equality between men and women, respect for evolving capacities of children.

RPWD Act 2016

Increased categories of disabilities from 7 to 21; 4% reservation in government jobs; accessibility mandates; special courts; National and State Commissions.

Landmark Cases

Deaf Employees Welfare Association, Jeeja Ghosh, and cases on reasonable accommodation and inclusive education.

Rights of Scheduled Tribes / Indigenous Peoples

Constitutional

Fifth & Sixth Schedules, Arts 15(4), 16(4), 46, 244, 275, 330, 332 – special provisions for administration and representation.

Forest Rights Act 2006

Recognises individual and community forest rights of forest-dwelling Scheduled Tribes and other traditional forest dwellers.

PESA 1996

Panchayats (Extension to Scheduled Areas) Act – self-governance in scheduled areas.

UNDRIP 2007

United Nations Declaration on the Rights of Indigenous Peoples – free, prior and informed consent, land rights, culture.

Landmark

Samatha v. State of A.P. (1997) – transfer of tribal land to non-tribals restricted; Niyamgiri (2013) – Gram Sabha consent for mining.

Key Issue

Displacement due to development projects, mining and conservation; need for free prior informed consent.

Rights of Older Persons

Maintenance and Welfare of Parents and Senior Citizens Act 2007

Obligation of children to maintain parents; Tribunal for claims; old-age homes; medical care.

Constitutional

Art 41 – State shall make effective provision for securing the right to work, education and public assistance in cases of old age.

National Policy

National Policy on Older Persons (1999, revised) – health, shelter, income security, education, empowerment.

Challenges

Loneliness, financial insecurity, elder abuse, inadequate geriatric care, digital exclusion.

International

Madrid International Plan of Action on Ageing (2002); ongoing efforts for a dedicated UN convention.

Case Law

Courts have ordered maintenance and protected property rights of senior citizens under the 2007 Act.

MINORITIES

Rights of Minorities

Art 29

Protection of interests of minorities – right to conserve language, script and culture.

Art 30

Right of minorities to establish and administer educational institutions of their choice.

National Commission for Minorities

Statutory body to safeguard minority rights and recommend measures.

Key Cases

T.M.A. Pai, P.A. Inamdar, St. Stephen's – scope of minority educational rights and state regulation.

Religious Freedom

Arts 25–28 protect freedom of religion subject to public order, morality and health.

International

UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992).

Key Judgments Across Vulnerable Groups

Vishaka (1997)

Sexual harassment – CEDAW applied

Independent Thought (2017)

Marital rape exception for minors struck down

M.C. Mehta (Child Labour)

Directions against child labour in hazardous industries

Samatha (1997)

Protection of tribal land from transfer to non-tribals

Niyamgiri (2013)

Gram Sabha consent required for mining on tribal land

Jeeja Ghosh

Dignity and non-discrimination of persons with disabilities

T.M.A. Pai (2002)

Autonomy of minority educational institutions

Navtej Johar (2018)

Dignity and equality of LGBTQ+ persons (related vulnerability)

Common Protective Approaches

01

Special Legislation

Dedicated Acts for each group (DV Act, POCSO, RPWD, FRA, Senior Citizens Act)

02

Constitutional Enablement

Arts 15(3)/(4), 16(4), 46 allow affirmative action

03

International Alignment

Domestic laws increasingly aligned with CEDAW, CRC, CRPD, UNDRIP

04

Specialised Bodies

Commissions for Women, Children, Minorities, Disabilities, SCs/STs

05

Judicial Activism

Courts have filled gaps using international law and expansive interpretation of Art 21

06

Intersectionality

Growing recognition that multiple identities create unique vulnerabilities

Core Principles for Vulnerable Groups

Best Interests

Especially for children – primary consideration in all actions (CRC Art 3)

Non-Discrimination + Special Measures

Formal equality is insufficient; substantive equality requires positive measures

Participation

Rights-holders must participate in decisions affecting them (children, persons with disabilities, tribals)

Accessibility

Physical, informational and procedural accessibility is a precondition for enjoyment of rights

Free Prior Informed Consent

Particularly for indigenous/tribal communities regarding land and resources

Dignity & Autonomy

Protection must not become paternalistic; autonomy and choice remain central

Women & Children – Critical Issues

WOMEN

- Persistent gender-based violence
- Marital rape still not fully criminalised for adult women
- Under-representation in decision-making
- Unequal inheritance and property rights in practice
- Workplace discrimination and care burden
- Implementation gaps in DV Act and POSH
- Need for better data and intersectional approach

CHILDREN

- Child labour continues in informal sector
- Trafficking and sexual exploitation
- Quality of education and learning outcomes
- Children in conflict with law – rehabilitation vs retribution
- Online safety and digital risks
- Malnutrition and health indicators
- Need for stronger family-based care over institutionalisation

Disability & Tribal Rights – Critical Issues

DISABILITY

- Implementation of RPWD Act still weak
- Accessibility of public spaces and transport
- Inclusive education vs special schools debate
- Employment quotas not fully filled
- Reasonable accommodation in practice
- Mental health and psychosocial disability
- Data gaps and stigma

TRIBALS

- Land alienation and displacement
- Implementation of Forest Rights Act incomplete
- Mining and development projects without consent
- Cultural rights and language preservation
- Access to justice and legal aid
- Health and education indicators lag
- Need for genuine self-governance under PESA

KEY HIGHLIGHTS

Sections & Main Points

Women	CEDAW + Vishaka + DV Act + POSH + Joseph Shine + Independent Thought
Children	CRC + RTE + JJ Act + POCSO + Child Labour Act + M.C. Mehta
Disability	CRPD + RPWD Act 2016 (21 categories, 4% reservation, accessibility)
Tribals	Fifth/Sixth Schedule + FRA 2006 + PESA + Samatha + Niyamgiri
Aged	Maintenance Act 2007 + Art 41 + National Policy
Minorities	Arts 29–30 + NCM + T.M.A. Pai line of cases
Principle	Special measures + non-discrimination + participation + dignity
Approach	International standards + constitutional enablement + judicial expansion

RECENT DEVELOPMENTS

Recent Cases & Legal Developments

X v. Principal Secretary (2022)

Abortion rights expanded for unmarried women – reproductive autonomy

Supriyo v. Union of India (2023)

Same-sex marriage – Court recognised discrimination but deferred to legislature

Disability cases post-2016

Courts enforcing reasonable accommodation and accessibility mandates

Forest Rights litigation

Ongoing cases on implementation of FRA and Gram Sabha consent

Senior Citizens

Increasing petitions under the 2007 Act for maintenance and protection from abuse

Minority institutions

Continued litigation on extent of state regulation vs autonomy under Art 30

Must-Remember Points

- Vulnerable groups require both non-discrimination and special protective measures.
- International conventions (CEDAW, CRC, CRPD, UNDRIP) provide the normative framework.
- Indian Constitution enables affirmative action through Arts 15(3)/(4), 16(4) and 46.
- Landmark judgments have been instrumental in expanding protection (Vishaka, Independent Thought, Samatha, Niyamgiri).
- Dedicated legislation exists for almost every vulnerable group, but implementation remains the key challenge.
- Intersectionality must be recognised – multiple vulnerabilities require tailored responses.
- Participation, accessibility, dignity and autonomy are cross-cutting principles.

Key Takeaways

1. Vulnerability is legally recognised and attracts special protection under national and international law.
2. Each group has a dedicated international instrument and corresponding domestic legislation.
3. Indian courts have played a transformative role by using international standards and expanding constitutional rights.
4. Implementation gaps, especially in tribal rights, disability accessibility and gender-based violence, remain significant.
5. An intersectional and participatory approach is essential for effective protection.

This completes the five units of Human Rights Law and Practice.