

action policy is about the quest for justice. Those who affirm affirmative action policy will assert that justice demands that government redistributes resources or opportunities whereas those that oppose affirmative action policies will assert that governments and institutions ought not to redistribute resources or opportunities that way; they would rather assert that if each individual wants to help the needy or the less privileged, it should be left to each one. They would say that the government must not enforce such a policy, as enforcing such a policy, entails forcing even reluctant citizens to support the policy. Let us examine some of the justifications for affirmative action policy.

Rectifying Inequality due to metaphysical lottery: One of the arguments of those who oppose affirmative action policy goes this way: since it is me who has earned the wealth, I ought to be able to possess it. No one ought to force me, including the government, to part to others what I have earned. Government may force me, through taxation, to part the money for construction of public good like road, defence machinery etc., but not affirmative action policy.

To this kind of argument, John Rawls has a response in his book *A Theory of Justice*. Rawls made his point to this effect. (For the sake of better understanding, the argument is contextualised.) Imagine a very successful woman badminton player. There are various factors that contributed to her success. The fact that she is tall; being born into a stable family; has a generation that values badminton rather than, say, gladiatorial sport. Had she been quite short, or was orphaned at a very young age or was born in a different century and so on, she might not have reached thus far. But her height, her stable family or the generation she is born into etc. are not really her doing; these contingent factors are rather a result of metaphysical luck. She did work hard, develop the skill and so on. However, not every factor that contributed to her success is her own doing. Her success is partly because of luck. Rawls goes on to even say that “The extent to which natural capacities develop and reach fruition is affected by all kinds of social conditions and class attitudes. Even the willingness to make an effort, to try, and so to be deserving in the ordinary sense is itself dependent upon happy family and social circumstances” (Rawls, p. 74). Given that there are factors that contributed to her success which are not her doing, she cannot say that the reason for her success is all because of her effort and that she has moral right to keep all the wealth that she now possesses.

Affirmative action policy thus tries to rectify the deep inequality between different people which arose because people are gifted in different ways.

Compensation for Social Exclusion: Another justification employed to affirm affirmative action policy is the compensatory argument. This argument asserts that people who belong to certain category have faced social exclusion for generations, and therefore their ancestors have been deprived of social and economic opportunities. The effect of such exclusion continues to elicit social and economic deprivation to the children of such social groups even to the present. To compensate for the discrimination, affirmative action policy thus needs to be in place. Critics have argued there could have been discrimination of certain social groups in the past, however, present individuals are not responsible for the discrimination in the past; therefore, critics continue, compensating the children of such social groups now at the cost of the present generation who are not responsible is unfair. This raises a further question: Do historic social identities have a bearing on our present social and/or economic condition? To answer this question, let us use our imagination to understand the social reality of the day. It is not unusual to find parents who are socially and economically disadvantaged being unable to send their children to good schools. On the other side, it is common to find parents who are socially and economically advantaged being able to send their children to good schools. The result of being trained in a good school and a bad school has a bearing on the professional status of a child. The gap is wide between children if the social and economic difference between the parents is wide. This implies that historic social identities have a bearing on the present social and economic status of a person.

If historic social identities have a bearing on the present condition of a person, providing reservation to such groups appear reasonable. However, when such a provision is made, as the critics argue, it undermines the interest of those who are not covered by affirmative action policy. There are at least two approaches to respond to this argument.

The first argument goes like this. If the idea that historic social identities have a bearing on the present social condition of a person is indeed true, then the present social and economic condition of the deprived group of people can have a bearing on the future generation of such groups. The future generation could argue that they are not responsible for the adverse condition of the deprived group, and that the past generation – the present generation – should have rectified the inequality of their times. This could go on and on. However, the generation that faces the social inequality has the obligation to rectify it in whatever way it could. Even if it was because of historic reason, given that the effect of social discrimination and exclusion stare at our face now, it would be morally wrong to do nothing to rectify it.

The second argument is this. People living in a nation-state are bound together by citizenship. This gives rise to shared identity. If an Indian citizen takes pride because hockey does well in

the Olympic games or feels shame because a fellow Indian commits a crime abroad, it is because of shared identity that citizenship binds the people into. For people of India, Indian-ness is shared across all the citizens. This shared identity that evokes pride or shame in the behaviour of fellow citizen also elicits obligation for the welfare of one's fellow citizens. If certain citizens are extremely wealthy while certain others have so less that they starve, the meaning of shared identity – in this context Indian-ness – hardly makes sense. To put it in perspective, if some Indians die of starvation, the shame will be felt even by the wealthy as well. This idea of shared identity that citizenship elicits entails that the least well-off must be taken care of. This is what a good citizen is supposed to be like. And the least well-off can be taken care of through affirmative action policy.

Affirmative Action Policy and Quality: The challenge raised with regard to the undermining of quality because of affirmative action policy appears to make sense at first glance. After all anyone would prefer to get the service of the best one in the profession rather than getting it from someone mediocre. However, one cannot assert that those who got admission through reservation would necessarily be worse off.

Let us take the example of medical sciences. At the time of entry, there are seats reserved for students from OBC, SC and ST. However, to finish the course, all of them must secure a minimum grade to qualify to become a medical practitioner. There is no separate qualifying standard for those who entered through reservation. Anyone who has passed the exam is considered qualified to practice the profession. In any examination, there could be someone who is at the top and another who is at the bottom. However, if the one at the bottom has passed the examination, he or she is equally qualified to practice the vocation. It is not necessarily true that the candidates belonging to the reserved category will be at the bottom. At the same time, it is also true that being a good physician is not only about securing good marks in the exam. Patience, honesty, compassion etc. are qualities that makes a physician a good physician. These qualities, however, are not graded in the examination. Hence, to consider the one who tops the examination as the best in the field is an inadequate form of measuring the competence of a person.

Check your progress III

Note: a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Explain Rawls' defense of affirmative action policy.

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2. What do you understand by compensatory argument?

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3. Candidates who entered through reservation do not necessarily lower the quality of the profession. Justify.

13.5 LET US SUM UP

Affirmative action policy is practiced worldwide. In India it is used to uplift the social condition of those who have faced social exclusion for generations. At present, the Other Backward Caste, the Scheduled Caste, Scheduled Tribe and the physically disabled are the main beneficiaries of the affirmative action policy. There have been critics who decry the fairness of such a policy. However, there have also been proponents who assert that justice entails that such a policy must be in place. Thus, despite criticisms affirmative action policy is unlikely to vanish. The ethics behind such a policy is compelling. There has also been a debate to expand the reach of such a policy to other domain as well. Therefore, in the coming days we may notice changes in the way the policy is being implemented.

13.6 KEY WORDS

Historic social identities: Social identity refers to the identity of the group to which a person belongs. When a person belongs to, say, a tribal group which has been considered as a tribe for many generations, the association of a person to this group has historical context. This historical affiliation to the group influenced a person in terms of his social, religious, economic and mental features.

Taxation: The government imposes taxation in two ways: direct and indirect. If a citizen earns certain amount of money per annum, the government cuts portion of the earning from

the salary of that person. Higher the income of the person, higher the percentage of cut. This is called direct taxation. The government also takes part of the money for any purchase a citizen makes or for the service provided by one citizen to another person. The purchase may be of sugar, car, house etc. or the service may consist of providing hotel accommodation, taxi drop etc. This is called the indirect tax.

Social exclusion: There are people whose ancestors have been considered to be impure or untouchable by certain other groups. Given this belief, the ancestors of such people were excluded from various social platforms. They were denied access to public well, temples etc.

13.7 FURTHER READINGS AND REFERENCES

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Sandel, M. *Justice: What's The Right Thing To Do?*. London: Penguin Books Ltd, 2010

13.8 ANSWERS TO CHECK YOUR PROGRESS

Check your progress I

1. The government of India provides reservation of seats to various sections of the society. One particular group of people for which reservation is provided is the Other Backward Castes (OBC). The other groups are Scheduled Caste (SC) and Scheduled Tribe (ST). The government also provides reservation for the disabled category. The government underscores that those citizens who are at least 50% disabled may avail of the reservation of different opportunities.

2. The government of India implements affirmative action policy in different ways. One of the ways the government does that is to reserve seats for the disadvantaged class in state funded educational institutions or in recruitment for government jobs.

Another way through which the government implements affirmative action is by way of providing essential items like fuel and food items at a cheaper rate to the needy. This way the government extends help to the economically deprived communities.

Check your progress II

1. Nozick is one philosopher who raises an objection to affirmative action policy. His objection is typical of what a libertarian philosopher would raise. He says that what one earns, one must be allowed to keep it; nobody should be forced to give part of what they have earned. When the government taxes rich citizens and then uses this money to provide help to

the deprived communities, Nozick thinks that this is not fair on the rich citizens who paid taxes. Nozick thinks that doing so amounts to forcing the rich citizens to work without getting wage in return.

2. Providing reservation of seats in various educational institution is a form of affirmative action policy. When such a policy is implemented, candidates from the communities for whom seats are reserved have lower cut-off requirement. This in effect leaves out candidates who may have indeed scored better grades than candidates for whom seats have been reserved. The selection of candidates due to lower cut-off requirement gives rise to the argument that affirmative action policy compromises quality.

Check your progress III

1. Critics of affirmative action policies say that whatever they have earned, they are entitled to keep their earning to themselves. John Rawls says that whatever one has earned is not entirely his or her doing. The fact that one has a stable family that provides social condition for a person to develop one's talent is not one's own doing. If a person had been born into a dysfunctional family, the person may not be able to develop his or her talent. If a person was born with physical deformity, he or she won't be able to compete in Olympic Games or excel in Cricket and other games. Individuals who are born in a particular century with certain physical features into a stable family are all matters of luck. These conditions are not really her doing. Given such contingencies in a person's success, one cannot claim that whatever he or she earns is one's own doing and he or she is entitled to keep all of it. Hence, it is fair for the government to tax part of a person's wealth for redistribution.

2. There are certain communities especially the ones like Scheduled Tribe and Scheduled Caste who have faced social exclusion for several generations. Due to such exclusion, they have been deprived of different opportunities. This deprivation continues to affect their lives and the lives of their children. Therefore, the government provides reservation to these groups of people so that the present generation will be compensated for the exclusion and discrimination their ancestors faced. This argument to justify providing of reservation to the present children because of the exclusion their ancestors faced in the past is known as compensatory argument.

3. Each profession requires certain sets of qualities. Apart from the lesson taught in the textbook, there are other qualities like honesty, compassion, punctuality etc. that may be required. It is not necessary that those candidates who entered the profession will lack these qualities. A person who may have very good knowledge of the textbook but lack these virtues

will be a worse practitioner of the vocation than a person who have just adequate knowledge to practice the vocation but adequately possess these virtues.

A candidate may have entered through reservation. However, any candidate would have to go through the rigorous process of learning and passing the examination. A candidate who has cleared the examination has adequate knowledge to practice that vocation. If the quality of his or her learning is not adequate, he or she would not pass the examination. Passing the examination indicates that he or she has obtained the qualification necessary to be in that profession.



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UNIT 14

MIGRATION*

Structure

- 14.0 Objectives
- 14.1 Introduction
- 14.2 Who is a migrant?
- 14.3 Terminologies
- 14.4 Theories of Migration
- 14.5 Causes of Migration
- 14.6 Issues and Challenges
- 14.7 Let Us Sum Up
- 14.8 Key Words
- 14.9 Further Readings and References
- 14.10 Answers to Check Your Progress

14.0 OBJECTIVES

The main objectives of this unit are to,

- Find the answers of the questions, who is a migrant?; what is migration?; and why a human being migrates?
- Discuss causes of migration and various types of migration.
- Understand the relationship of migration with Socio-economic and Political aspects of human life.

14.1 INTRODUCTION

Migration is not unique to human species alone. Migration is natural to the plants and animal world- plants migrate through various natural process of wind, flood and many other natural process, birds and animals too migrate in search of food and better climate. Migration is a normal as well as forced human activity and occurs in almost all known human societies. Since time immemorial, human beings have always moved from ‘their place of residence to another’. More so with the onset of industrial revolution, migration and urbanisation have been intrinsically intertwined processes which can therefore not be conceptualised separately. Modern urbanisation processes is impossible without rural-to-urban migration.

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Migration can be within a locality, region, and country or outside the country. There are several reasons for why People migrate from one place to another. But the most common of all is the desire for a better life. This desire to migrate might be driven by circumstances such as in a home country from which certain individuals are forced to leave the place as in the case of refugees and exile population. It can also be due to their free will or a sense of adventure- for study, job, for uniting with family and relatives etc.

Movement of people or migration has played a very important role in human history. Movement is a specific feature of social life. Historically, however, the emergence of sedentary cultures has developed a sort of suspicion toward movement because it cannot be contained, framed and therefore ruled. If, on the one hand, fixity is historically linked to authoritarianism, control, and to forms of governance; on the other side movement expresses an unrestricted sense of freedom.

Migration can be caused by various factors like better economic opportunities, better lifestyle, better educational opportunities, demographic imbalance, family reunification, natural calamities, climatic change, the spread of epidemics, wars, change in the national boundaries, genocide, religious and social ostracization, etc. The point which we are trying to make here is that people migrate due to different reasons and circumstances. Migration can also be of various types such as voluntary or involuntary/forced, internal or international, temporary, or permanent, and regular or irregular migration.

14.2 WHO IS A MIGRANT?

There is no single definition of “migrant”. Who is a ‘migrant’ is often unclear in public debate. In this section you will get to know how various terminologies are used to understand migration and how various scholars theorize migration. For example, migrants are often conflated with ethnic or religious minorities and with asylum seekers. Often this term is evolving with the change of time, with the shaping and reshaping of nation state etc. The people who are once considered as citizens of the country can be considered as migrants in the same country if there is bifurcation of state or country. It is an umbrella term which applies to a person who moves away from his or her place of usual residence, temporarily or permanently, and for a variety of reasons. This can be within the region, country or outside the country. This term applies to many, such as migrant workers, refugees, students studying outside of their own place of residence etc. The term changes in different context. While they

are called “migrants” within the same region; they are called immigrants, emigrants, foreign born etc. when they cross international borders. These uses indicate and reflect the different status of migrants. Therefore ‘migrant’ is a term very much linked to socio-political milieu of the place.

Migrant is a person who moves away from his or her natural or usual place of residence to another location, region or country. This can be for various social, psychological, economic and political and environmental reasons. The migrant can be temporary or permanent. Migrant can go voluntarily or forcefully. There are various terminologies often used for the migrants.

14.3 TERMINOLOGIES OF MIGRATION

There are various terminologies associated with migrants. Let’s discuss each terminology vis a vis migration. The UN Migration Agency (IOM) defines a migrant as any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person’s legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is.

14.3.1 Refugee vs Asylum seeker

A Refugee, according to 1951 Convention, is a person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

Refugees are the people fleeing armed conflicts or persecution. There were 19.5 million of them worldwide at the end of 2014 according to UNHCR. Their situation is so perilous that they cross national borders to seek safety in nearby countries and become recognized as refugees with access to assistance from states and aid organisations.

An important aspect of this is that refugees are protected by international law, specifically the 1951 Refugee Convention. But even the terms refugee and asylum seeker are often conflated.

A refugee is someone who has been forced to flee his or her home because of war, violence or persecution, often without warning. They are unable to return home unless and until conditions in their native lands are safe for them again. An official entity such as a government or the United Nations Refugee Agency determines whether a person seeking international protection meets the definition of a refugee, based on well-founded fear.

Those who obtain refugee status are given protections under international laws and conventions and lifesaving support from aid agencies, including the International Rescue Committee. Refugees in the U.S. also have the opportunity to become lawful permanent residents and eventually citizens.

An asylum seeker is someone who claims to be a refugee but whose claim hasn't been evaluated. This person would have applied for asylum on the grounds that returning to his or her country would lead to persecution on account of race, religion, nationality or political beliefs.

Someone is an asylum seeker for so long as their application is pending. So not every asylum seeker will be recognized as a refugee, but every refugee is initially an asylum seeker. An asylum seeker is someone who is also seeking international protection from dangers in his or her home country, but whose claim for refugee status hasn't been determined legally. Asylum seekers must apply for protection in the country of destination—meaning they must arrive at or cross a border in order to apply.

Often, these terms are used interchangeably, but we should remember they refer to different stages of the asylum application status and are subject to different rules.

An asylum seeker is a person looking for protection because they fear persecution, or they have experienced violence or human rights violations. A refugee is a person who asked for protection and was given refugee status. They may have been resettled in another country or be waiting for resettlement.

Asylum seeker specifically refers to a person who applies for refuge or asylum in a foreign country or its embassy, especially for political reasons. Some *refugees* may be *asylum seekers*, but not all *asylum seekers* necessarily consider themselves *refugees*.

14.3.2 Immigrant vs Emigrants

The term “Immigrant” is used while talking about the country moved to (going out). “Emigrant” is used when talking about the country moved from (coming in). Its often the same person who is emigrant for ‘sending country’ and immigrant for the ‘receiving country’. If a migrant goes to another country, they need to obtain permit or visa so that they can go legally. These restrictions are governed by various migration regimes.

All these terminologies refer to different forms of migrants

14.4 THEORIES OF MIGRATION

Though the field of migration studies has remained a surprisingly under-theorized field of social inquiry, yet there are many interdisciplinary theories that provide theoretical understanding of the phenomenon of migration. The following are some of widely accepted theories across disciplines;

1. World System Theory
2. Segmented Labour Market Theory
3. Push and Pull factors of Migration
4. Neo Classical Theory
5. The New Economics of Migration

14.4.1 World System Theory

World-system theory has been closely associated with Immanuel Wallerstein. A world-system is a "world economy" that is integrated through the market rather than a political center where two or more regions are interdependent with respect to necessities like food, fuel, and protection, and two or more polities compete for domination without the emergence of one single center forever. There is a centre and periphery. Where centre dominates and exploits the periphery, there is always unequal exchange of resources that includes capital, labour and other services. Migration is the result of this unequal distribution.

14.4.2 Segmented Labour Market Theory

Segmentation may arise from particularities of labour market institutions, such as those governing contractual workers. Labour market disparities drive migration due to its differential opportunities for different labour segments. The core idea of this economic theory is that international migration is a result of modern industrial societies' underlying labour demands. According to Piore (1979), migration is caused by pull forces in the destination

country rather than push factors in the source country. He claims that industrialized countries' economic arrangements are to blame for the constant desire for foreign employees. According to this hypothesis, the receiving country's labour market, as well as all employers and governments working on its behalf, is the primary driver of international migration.

14.4.3 Push and Pull factors of Migration

Push factors are those which compel individuals to leave their usual place due to factors such as non-availability of enough livelihood opportunities, poverty, rapid population growth that surpasses available resources, poor living conditions, climate disaster, famines/droughts, civil unrest and war, poor educational and health infrastructure, loss of wealth etc. Pull factors are exactly the opposite of push factors, i.e., they attract people to a certain location such as more job opportunities and better living conditions, easy availability of land for settling and agriculture, political and/or religious freedom, superior education and welfare systems, better infrastructure in education and health and security, etc.

14.4.4 Neo Classical Theory

The theory of neoclassical economics, explains migration from a macro-level perspective of geographic differences in the supply and demand of labour (Todaro and Maruszko, 1987, Massey et al. 1998:18). A country or a region which has a large presence of labour relative to the availability of capital will have excess supply of labour and low wages. On the other hand, a country or a region which has a large capital relative to the presence of labour, will have labour scarcity and as a result High wages. As a consequence, the differential in wages induces the labour from labour-surplus low-wage countries to move to labour-scarce high-wage countries. Neoclassical theory, therefore, implies that the labour market mechanisms are the direct and sole factors influencing the decision of the individual to migrate.

14.4.5 The New Economics of Migration

The New Economics of Migration method emerged in the 1980s and has provided some new insights into the migration process. This integrated approach was created to connect different levels of social structure while also taking into account historical and contemporary activities (Fawcett and Arnold, 1987:456; Massey, 1990, in Goss and Lindquist, 1995:326). Individual rationality and macroeconomic conditions are no longer considered as the sole factors influencing decision-making. Instead, the new migration economics highlights the significance of bigger groups of individuals, such as families, homes, or even communities,

as the link between macro- and micro-level analyses. The model posits that people's collective goals are to maximise expected income while minimising risks associated with all types of market failures, not only labour market failures.

Check Your Progress I

Note: a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Differentiate between Refugee vs Asylum seeker

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2. Push and Pull factors of migration

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14.5 CAUSES OF MIGRATION

There is no single cause for migration, but migrants' expectations are as complex and multilayered as their reasons to move. It is difficult to separate climatic reasons from economic, livelihood from poverty, ethnic discrimination from political persecution and other reasons. On most occasions one or more reasons simultaneously impact the decision to migrate. Climate change often endangers the livelihood of people and acts as push factor to migrate. Similarly ethnic discrimination may result in majoritarian politics leading to political prosecution and acting as a push factor for migration. Broadly there are Economic factors and non-economic factors.

	Push Factor	Pull Factor
Economic	Poverty, high taxes, low employment, high cost of living,	Demand for labour, High Wages, Better Welfare benefits, Decent Jobs,

	low infrastructure	Better healthcare and education, Low cost of living, High economic growth
Non-Economic	Social, Political and Economic Discrimination, War and Oppression, Climate crisis, Disaster, Pandemic, Crime	Rights and freedom, Better Law and order, Multiculturalism, Family support

Table I: Economic and Non-Economic Factors

According to Castles, “migration is a part of the process of transformation of social structures and institutions, and the entire global political economy”. He further explains that “migration studies need to be embedded in broader social theory, drawing on the full repertoire of social science disciplines and that migration embraces all dimensions of human experience, and therefore demands an interdisciplinary approach” (2010: 1596). Sociologist Everett Lee observed that the factors which influence the decision of an emigrant can be divided into those operating in the area of origin (push factors), and at the destination (pull factors). At the micro-level, migration is the result of decisions made by an individual, the ‘rational actors’. Though there are many macro and micro factors and interrelationship between them causes migration, one can broadly categorise them into the following four.

(a) Economic, (b) Social-Political, (c) Demographic, and (d) Climate or Environment

a) Economic Causes

Though there are many determinants that make individuals as well as families to migrate. One of the important reasons is the economic factor. Migrant always think migration in terms of cost and benefits that may range from income, livelihood, career opportunities etc. These days one can see large number of students are migrating within and outside regions mainly due to their career. Labour markets also run in terms of economic consideration of demand and supply.

b) Social and political causes

We have been witnessing so many civil unrests and wars in recent times leading to large scale migration. The Syrian refugee crisis, Afghanistan crisis and the recent Russia-Ukraine war created large scale migration.

In recent years, people have been fleeing to Europe in large numbers from conflict, terror and persecution at home. Of the 384,245 asylum seekers granted protection status in the EU in 2022, more than a quarter came from war-torn Syria, with Afghanistan and Venezuela in second and third place respectively.

c) Demographic causes

Demographic change determines how people move and migrate. A growing or shrinking, aging or youthful population has an impact on economic growth and employment opportunities in the countries of origin or migration policies in the destination countries.

Demographic and economic migration is related to poor labour standards, high unemployment and the overall health of a country's economy. Pull factors include higher wages, better employment opportunities, a higher standard of living and educational opportunities. If economic conditions are not favourable and appear to be at risk of declining further, a greater number of people will probably migrate to countries with a better outlook.

According to the UN International Labour Organization, migrant workers - defined as people who migrate with a view to being employed - stood at roughly 169 million worldwide in 2019 and represented more than two thirds of international migrants. More than two-thirds of all migrant workers were concentrated in high-income countries.

d) Climate migration

Climate related migration has been increasing. Many countries are severely affected by climate change leading to livelihood challenges etc. The environment has always been a driver of migration, as people flee natural disasters, such as floods, hurricanes and earthquakes. However, climate change is expected to exacerbate extreme weather events, meaning more people could be on the move. Environmental migrants are those who for reason of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are forced to leave their native place, either temporarily or permanently.

It is hard to estimate how many environmental migrants there are globally due to factors such as population growth, poverty, governance, human security and conflict, which have an impact. Estimates vary from 25 million to one billion by the year 2050.

14.6 ISSUES AND CHALLENGES

14.6.1 Migration and Sustainable Development Goal (SDG 2030)

Human life is deeply connected with all other forms of life and environment around us. The survival of human beings depends on the survival of entire ecosystem that sustain the life forms by supporting each other. Therefore, forest, ocean, river, flora and fauna all are interrelated and sustain each other. Human life is very much and deeply connected with them. This deeper relation is given emphasis in the SDG 2030. The SDGs' central reference to migration is made in Target 10.7 to facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies, which appears under Goal 10 to reduce inequality within and among countries.

14.6.2 Aging and Migration

The increase in life expectancy is leading to an aging population in many parts of the world. It is visible not only in developed regions but also in the developing regions of the world. Hence, the number of working populations is decreasing and the number of dependent population or the population which requires care is increasing in these countries. To fill the gap between working population and dependent population, these countries mostly have to rely on immigrants. The aging population not only impact the demand and supply within the region but also across the region. Citing the example of Europe, studies projected the demographic and economic consequences of different migration scenarios on the European Union in their work. Some countries like China and Japan are experiencing population decline; on the other hand, countries like India are still reporting rapid growth in their population (United Nation, 2019). The Europe's population is aging rapidly due to decline in fertility rate at the one end and increase in life expectancy on the other. The increase in aging population results into decrease in the working age of the population and increase in the old-age dependency ratio. This has a negative impact on economy. In order to keep economy thriving, many countries are attracting labour from out of their country. The aging global north is mostly having aging population and creating demand for labour from global south, thus a global migration flow is created.

14.6.3 Feminization of Migration

Female migration was always close to male migration in the human migration history as they go along with male members of the family. Gendered causes of migration include income

generation, family reunification, gender discrimination and norms, trafficking, and conflict, disaster and persecution. Gendered impacts of migration include impacts on migrants themselves, migration and gender Relations (challenging traditional gender roles, entrenching traditional gender roles), contradictory effects of migration, gendered effects of changing to a more settled lifestyle (Jolly & Reeves, 2005).

As UN data shows (UN DESA, 2021) currently there is a larger number of male than female international migrants worldwide, and the gap has increased over the past 20 years. While in 2000, the male to female split was 50.6 to 49.4 per cent (or 88 million male migrants and 86 million female migrants), in 2020 the split is 51.9 to 48.0 per cent, with 146 million male migrants and 135 million female migrants. The share of female migrants has been decreasing since 2000. What is unique is that women as independent migrants have been increasing in proportion to migration due to marriage. Therefore, the character of migration is changing over the period and this has impacted family and culture of the various migrant communities.

14.6.4 Securitization of Migration

Movement of people within or outside the country has been perceived by many countries as a security challenge. Many European and Advanced countries in West in recent time enacted very strict visa regime for selected countries in Asia and Africa especially after the 9/11 incident. In many countries elections are fought on the issues of insider (native) and outsider (migrants).

14.6.5 Technology and Migration

Migration is also impacted by new technological developments including information technology and robotics. Many sectors are affected by technological development and hence the demand for skills is changing. The traditional migration corridors for unskilled migrant labour are no more the new destination of migration and the technological development in many sectors created the unskilled jobs in certain areas.

Check your Progress II

Note: a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. What are Economic causes of Migration?

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2. Explain how Aging impacts migration?

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14.7 LET US SUM UP

The future of migration depends on many factors such as technological progress, climate, etc. It is very important to think on how to manage migration for sustainable development.

The 2030 Agenda for Sustainable Development recognizes for the first time the contribution of migration to sustainable development. 11 out of the 17 Sustainable Development Goals (SDGs) contain targets and indicators relevant to migration or mobility. The Agenda's core principle is to "leave no one behind," not even migrants.

The SDGs' central reference to migration is made in [target 10.7](#): to facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies. Other targets directly related to migration mention trafficking, remittances, international student mobility and more. Moreover, migration is indirectly relevant to many more cross-cutting targets.

According to the latest data published by the United Nations, the number of international migrants amounted to 281 million in 2020, which is equivalent to 3.6 percent of the world's population. By "migrant", it is meant: Any person who, leaving his or her usual place of residence, crosses an international border, regardless of the nature and cause of the movement or the duration of the stay. The census therefore covers a wide range of circumstances and includes both war and economic refugees - estimated at more than 82 million - and voluntary migrants: workers, students, retirees, etc.

14.8 KEY WORDS

Asylum seeker: It refers to a person who applies for refuge or asylum in a foreign country or its embassy, especially for political reasons.

Migrant: It's an umbrella term applies to a person who moves away from his or her place of usual residence, temporarily or permanently, and for a variety of reasons.

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14.10 ANSWERS TO CHECK YOUR PROGRESS

Check Your Progress I

1. A Refugee, according to 1951 Convention is a person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

An asylum seeker is someone who claims to be a refugee but whose claim hasn't been evaluated. This person would have applied for asylum on the grounds that returning to his or her country would lead to persecution on account of race, religion, nationality or political beliefs.

2. Push factors are those which compel individuals to leave their usual place due to such as non-availability of enough livelihood opportunities, poverty, rapid population growth that surpasses available resources, poor living conditions, climate disaster, famines/droughts, civil unrest and war, poor educational and health infrastructure, loss of wealth etc. Pull factors are exactly the opposite of push factors i.e. they attract people to a certain location such as more job opportunities and better living conditions; easy availability of land for settling and agriculture, political and/or religious freedom, superior education and welfare systems, better infrastructure in education and health and security etc.

Check Your Progress II

1. One of the important reasons for migration is the economic factor. Migrants always think of migration in terms of cost and benefits that may range from income, livelihood, career opportunities etc. These days one can see that large number of students are migrating within and outside regions mainly due to their career. Labour markets also run in terms of economic consideration of demand and supply.
2. Demographic change determines how people move and migrate. One important factor is aging population. Aging population is seen as low productive for any economy and hence to drive economy there is need for more labour which can be fulfilled by migrant labour. The aging countries in Global North which are capital rich and low in labour, import labour from global south to fill the gap of labour shortage and hence drive migration.

UNIT 15

PRIVACY*

Structure

15.0 Objectives

15.1 Introduction

15.2 Situational deliberations regarding privacy

15.3 Privacy: As a Historical, Philosophical and Legal Concept

15.4 Consent

15.5 Philosophical Critiques of Privacy

15.6 Privacy Debate in India

15.7 Privacy and Data

15.8 Let us Sum Up

15.9 Key Words

15.10 Further Readings and References

15.11 Answers to Check Your Progress

15.0 OBJECTIVES

This unit attempts at,

- understanding the philosophical aspects of privacy, that is, its definition, justification, interconnection with other values, and
 - the estimation of its importance in comparison with other social, moral, and individual aspects.
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15.1 INTRODUCTION

In Book 1 of Aristotle's *Politics*, Aristotle makes a distinction between the *polis* or sphere of public activity and the *oikos* or sphere of domestic activity; more commonly we understand this as the distinction between the public and the private domain. Even the etymology of the English word "privacy" has its roots in the Latin term "privatus" which means that which is distinct from the public; that which belongs to the individual and is not open to everyone else. Though we commonly understand privacy as a political or ethical concern of humans, some scholars argue that other species of animals too desire privacy. In the study of privacy as a philosophical concept, privacy is seen as a value, as a legal and political right, information as well as a fundamental aspect of being. Privacy is often seen as an abstract concept with great

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scope of misuse, as some might argue that seeking privacy is an attempt towards moral cowardice. Yet, others may see privacy as this natural right to one's own person which becomes the very condition for human dignity and thus, moral action. The most peculiar aspect of the concept of privacy is that it can be seen both as a positive as well as a negative value: positive in instances such as individual freedom, non-interference, for one's own dignity and moral doings as well as participation in the society; and negative in the sense of controlling or attempting to violate or suppress the voices of the marginalized in the name of privacy. Thus, we see that when we speak of privacy there are manifold definitions that can be associated with it, and it is required to be seen from a holistic perspective, keeping the concerns of certain groups in mind. Though we look at privacy mainly from the perspective of the individual, we see that privacy is an important concept for the state and other's relationship to an individual. We shall see that the concept of privacy impacts the individual as well as institutions, practices, activities, and life generally.

Hence, Privacy is as much a philosophical concept, as it is a social and a legal one, and therefore we see that ruminations on the concept of privacy have emerged from legal scholarship as much as it has from the humanities. We see that the concept of privacy has evolved to not just being a legal and a constitutional right in many countries, but also now being extremely relevant in the context of data sharing and data protection.

In the coming sections we shall look at the philosophical perspectives of the issue of privacy, the trajectory of the debate on privacy internationally in the legal as well as rights-based sense, as well as the critique of certain ideas of privacy.

15.2 SOME SITUATIONAL QUESTIONS REGARDING PRIVACY

- Would it be an invasion of one's privacy if one logged onto a specific social media platform and the social media platform gave all their personal information and chats to a third party?
- Would it be an invasion of a person's privacy, if a friend of theirs read their personal journal without their permission?
- Is it a violation of a celebrity's privacy when a picture of theirs is taken by a stranger at a restaurant where they have gone to eat?
- One stays at a hotel room for a night and the owner of the hotel puts a camera in the guest's room to make sure they are not misusing the property, does that hold the owner liable for breaching the guest's privacy?

- An employee who is working from home for a corporate has a software installed in their laptop that monitors their eye movement for the employer to know whether they are working or not. Does that concern the employee’s privacy?
- A patient visits a doctor to share their symptoms, and the doctor shares their name as well as the problem to another patient. Is this ethical on the part of the doctor, does this breach the patient’s privacy in any way?

There are many more examples from one’s daily life that can be given as situations to assess whether there has been any infringement of one’s privacy. Privacy is a dynamic concept and often times context and culture dependent as well (though that remains debatable and will be discussed in the coming sections). It is important to understand that privacy is complex and yet fundamental to living one’s life, as well as it is recognized as a right that is essential to living one’s life freely in a democracy.

Check Your Progress I

Note: a) Use the space provided for your answer.

b) Check your answers with those provided at the end of the unit.

1. Define the origins of the term “privacy”.

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2. Briefly comment on the whether or not there are any privacy concerns if a celebrity’s picture is taken by a stranger at a restaurant where they have gone to eat? Versus a celebrity’s picture being taken by professional commissioned photographers at an event. Is there any difference in both these above stated scenarios?

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15.3 PRIVACY: AS A HISTORICAL, PHILOSOPHICAL AND LEGAL CONCEPT

Though there are ancient writings on some idea relating to privacy in Greek and Roman antiquity, as well as in Indian *dharmasāstric* texts as well as in the American constitution, we see that there are texts that deal with property concepts, some texts have attempted to draw

limits on the surveillance powers of governmental, religious, and economic authorities in the interest of privacy for individuals, families, and certain social groups in each society. Though it might be difficult to trace the term “privacy” across such older contexts, we do see that there are rules to the way in which society lends space to an individual in their private sphere, and also delineates the state’s role in their life, along with the distinction of their own roles/duties/rights public sphere. Many anthropologists believe that privacy is absolutely inherent to human interaction, and thus human culture.* That there is a dialectic between wanting to interact with the world, while also being alienated from the world. They believe that even the most primitive societies, that had no conception of private property or nuclear family and so on, still had a sense of being watched or being under surveillance as well as an idea of wanting to be by oneself. This idea of being watched and having a personal sense of self is developed in Judeo-Christian religions as well as Brahmanical religions. Thus, we see that though the term “privacy” enters legal parlance and mainstream discourse only by the 19th century in the western world, yet it remains an extremely significant issue in the existence of a human being and human culture.

In an essay titled “The Origins of Modern Claims to Privacy,” author Alan Westin writes, “The point that can be made, however, is that no society with a reputation for providing liberty in its own time failed to provide limits on the surveillance power of authorities”. Privacy has thus been an issue that concerns the individual, the individual’s relationship to the state, and what the socio-political as well as legal constraints that the state lays on the individual. Thus, we see that, in the 20th century, the concept of privacy becomes an issue not just of academic discussion but also a matter of legal deliberation. Samuel D. Warren and Louis D. Brandeis, in their essay titled “The Right to Privacy: The implicit made explicit,” argued that the legal system needs to evolve with the political, social and economic changes that accords rights with respect to the changing society.

The concept of privacy typically enters the legal sphere with the ideas of right to life; liberty and right to property. The right to life entails protection from any kind of battery; liberty meant not being controlled; and right to property gave some idea of independent ownership to the individual. Eventually with the progress into the 20th century and the influence of American and European culture, the purview of the conception of right to life also came to include the right to be left alone, the right to all civil liberties like freedom of religion, freedom of expression, freedom of sexuality, freedom of speech, and so on; and the term

* *Sociology of Georg Simmel*, tr. and ed. by Kurt Wolff (New York, 1950)

property extends not just to owning land and having money or tangible assets but also one's writing, artwork, and other intangible extensions of oneself.

However, S. D. Warren and L. D. Brandeis, in their seminal essay, draw out the caveats to this legal conception of the right to privacy, which becomes a complex notion when authorities, crimes, invasions, and other complicated situations and stakeholders are involved.

The caveats discussed by the authors are as follows:

1. The right to privacy does not prohibit any publication of matter which is of public or general interest: this simply implies that generally the law must protect everyone's life and thus give them the support to do as they like i.e., to have the choice to keep certain things public and certain things not.
2. The right to privacy does not prohibit the communication of any matter, though in its nature private, when the publication is made under circumstances which would render it a privileged communication according to the law of slander and libel: by this rule, the authors clearly specify, that it does not imply that any authority always already gets a chance to invade an individual's privacy. In case there is ever a scenario when an individual is questioned by an authority like the court, it should be in the hands of the individual to decide what they would like to make public and keep private.
3. The law would probably not grant any redress for the invasion of privacy by oral publication in the absence of special damage: it is often the case that an oral information that potentially invades one's privacy is not given importance unless something substantial is there as proof.
4. The right to privacy ceases upon the publication of the facts by the individual, or with his consent: this is a very important point. That an individual must decide whether something that they own or have written or done is to be shared publicly or is to be kept private. Something can only go out of the private domain into the public, when the individual gives consent to making it public.
5. The truth of the matter published does not afford a defense. Obviously, this branch of the law should have no concern with the truth or falsehood or the matters published. It is not for injury to the individual's character that redress or prevention is sought, but for injury to the right of privacy. For the former, the law of slander and libel provides perhaps a sufficient safeguard. The latter implies the right not merely to prevent inaccurate portrayal of private life, but to prevent its being depicted at all: This is an interesting point because it states that though privacy is a legal concept, choosing to

be private about something must be kept separate from whether that action/writing is correct/incorrect, true/untrue.

6. The absence of "malice" in the publisher does not afford a defense: in the authors words, "The invasion of the privacy that is to be protected is equally complete and equally injurious, whether the motives by which the speaker or writer was actuated are, taken by themselves, culpable or not; just as the damage to character, and to some extent the tendency to provoke a breach of the peace, is equally the result of defamation without regard to the motives leading to its publication" (S. D. Warren and L. D. Brandeis; 1890, 90).

The above statements regarding privacy are influenced by the French law, and we must keep in mind that not all cultures, not even all democracies may have the same idea of privacy. However, what the above statements try to show is that universally, the idea of privacy is deeply interlinked to an individual's life, choice and consent— though the relationship between these ideas may be complicated by the culture and the laws under which one lives.

15.4 CONSENT

The concept of consent is key to the concept of privacy. In simple terms, "consent" means to agree or to give permission to something. Consent is integral to privacy because it is inherent to the agency to an individual. By "agency of an individual" we mean that all people have their own free will or autonomy to decide what they want to give access and permission to and what they don't. Consent requires to be out of one's own free will and not out of any kind of coercion or pressure. Consent is also important to privacy in scenarios of intimacy, where the individual must be in a friendship or share any intimate relationship with the other with each other's consent. Anyone who intrudes without permission on the intimacy of another person, interferes with their self-hood and autonomy in a very serious way.

Not just in inter-personal relationships, but we see that in today's times consent becomes important even when we give our data to any organization as for an example, to a social media platform. Organizations are required to obtain individuals' consent to lawfully collect, use and disclose personal information in the course of any activity where they shall use your data. Without consent, organizations are not allowed or often have limited access to process personal information.

Check Your Progress II

Note: a) Use the space provided for your answer

b) Check your answers with those provided at the end of the unit

1. What are the three main concepts that define the right to privacy?

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2. Define the concept of consent and explain how **is it** important to privacy?

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15.5 PHILOSOPHICAL CRITIQUES OF THE CONCEPTION OF PRIVACY

15.5.1 Reductionist view of privacy

One of the most important arguments about privacy is by the philosopher Judith Jarvis Thomson. In an essay titled “The right to privacy” that was written in the year 1975, Thomson argues that the conception of “privacy” is derivative and there is not and cannot be a unified idea of privacy. Thomson’s major contribution to the philosophical formulation of privacy is that, privacy is understood when it is in terms of a violation rather than as any specific right. In terms of rights, privacy can always become a part of/come under other rights like the right to property or right to life. In her paper, Thomson gives the following example to explain her thesis:

“Consider, for ex- ample, the familiar proposal that the right to privacy is the right "to be let alone." On the one hand, this doesn't seem to take in enough. The police might say, "We grant we used a special X-ray device on Smith, so as to be able to watch him through the walls of his house; we grant we trained an amplifying device on him so as to be able to hear everything he said; but we let him strictly alone: we didn't touch him, we didn't even go near him-our devices operate at a distance." Anyone who believes there is a right to privacy would presumably believe that it has been violated in Smith's case; yet he would be hard put to explain precisely how, if the right to privacy is the right to be let alone.” *

Thus, the basic point that Thomson is trying to make is that there is no one coherent concept of privacy, rather a cluster of instances of violations of different rights that enable us to

* Thomson, Judith Jarvis. “The Right to Privacy.” *Philosophy & Public Affairs* 4, no. 4 (1975): 295–314.

understand that the underlying issue is related to privacy. Finally, the right to privacy, on Thomson's view, is merely a cluster of rights. Those rights in the cluster are always overlapped by other rights.

15.5.2 The economic critique of privacy

Richard A. Posner in an article titled "An economic theory of privacy"* writes that the privacy principle does not work in the context of economics. The reason being that economic activity is transactional with no place for withholding information. If people start being private about their earnings and transactions, then that would be harmful for the society as a whole. Here, Posner is defining privacy as control over information about oneself, His main argument is that concealment or selective/non-disclosure of information is many a times to mislead or manipulate others, or for private financial gain. However, Posner still finds value in organizational privacy than individual privacy, as he understands that organizations are required to abide by principles of commercial privacy in terms of the trade secret of their business, private records, and so on.

15.5.3 Privacy as not being a right based on constitutional or natural law

Judge Robert Heron Bork (March 1, 1927 – December 19, 2012) was an American Supreme Court judge who is known as the father of originalism, which is the theory of constitutional interpretation that calls on judges to give the words of the Constitution the original public meaning that they had when the Constitution or its relevant amendments were enacted into law. Judge Bork was opposed to the ruling given in the *Griswold versus Connecticut* case, which stated that the constitution of the United States protects the privacy of married couples to buy contraceptive. This judgement overturned the rule of Connecticut state (USA) which banned the sale of contraceptives. However, Judge Bork stated that the idea of privacy is not based on any natural law, nor is it coming from within the constitutional rights; rather matters of privacy like in the *Griswold versus Connecticut* case are socio-cultural issues and have nothing to do with it being a fundamental right derived from the constitution. Bork's view is that in this case, the Court invented a new right, and thus exceeded their bounds as judges by making new law, which did not exist either as a part of natural law or the Bill of Rights in the American constitution.

Bork and a few others from similar thought, argue that privacy must not independently become a right but it should be somewhere within the broad ambit of right to liberty. This

* Posner, Richard A. (2008) "Privacy, Surveillance, and Law," *University of Chicago Law Review*: Vol. 75: Iss. 1, Article 11.

also goes in line with the discussion on how privacy is essential to human freedom and right to life.

15.5.5 The feminist critique of privacy

The feminist critique of privacy is one of the strongest critiques as it discusses the relationship between privacy, visibility, and emancipation. In a simplistic sense privacy is seen as a fundamental principle in guaranteeing an individual autonomy and freedom, however many feminists have argued that this public and private divide has often essentialized women's roles and duties, and restricted them for free action in any public space. The reason for this is that the private sphere is used as a space for social and political marginalization of women, by restricting them to a certain spaces and roles. The patriarchal structures appropriate the private sphere in a way that women's access gets restricted, and many a times women are exploited, and crimes against them are not known to the outside world as it happens within the domain of the private. Another aspect is that traditionally women have been given roles in private life like child care, nursing, household chores, domestic life management and so on. Even in these times, women are not given equal pay for the domestic labour.

The argument that feminists are making is not that women do not need or want privacy it is that privacy for women works in different ways that it has for men. For men, the private is a juxtaposed to the public; however, for women, the private which has been their traditional space of work and living has been seen in fixed and patriarchal ways.

It has also been the case that women haven't had full right to their body—whether it be the choice of having access to contraception, abortion, attire, etc. — women often see that their rights are already much behind the debate on privacy in the world. All these ideas associated with privacy –having the autonomy and freedom to live one's own life, to have ownership to one's body, and other such ideas— become more complicated when we see privacy in the context of women and other marginalized groups.

Check Your Progress III

Note: a) Use the space provided for your answer

b) Check your answers with those provided at the end of the unit

1. Write a note on the feminist critique of Privacy.

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15.6 THE PRIVACY DEBATE IN INDIA

In the Indian context, scholars have claimed that one can trace the concept of Privacy to *Dharamśāstras*, *Upaniṣads* and especially Kautilaya's *Arthasāstra*. In current times the right to privacy was never a part of the fundamental rights, but the discussion to include it within the ambit of Fundamental Rights was always a part of the Constituent Assembly Debates. The right to privacy thus remained a subset of the right to life and liberty. Until 24th August 2017, when a watershed judgement was made which declared the right to privacy as a fundamental right. This was Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors. Only after a long battle of legal interpretations was the right to privacy made a fundamental right to be protected under Part III of the Constitution of India. The judgement also declared that the right to privacy would come with reasonable restrictions. The Government had already formed a committee headed by Justice B.N. Srikrishna in 2017 to look into the various aspects of privacy and give recommendations for data protection which eventually culminated in the draft Personal Data Protection Bill.

“A robust data protection framework is essential to protect citizens’ privacy, prevent companies and governments from indiscriminately collecting data, and holding companies and governments accountable for data breaches to incentivize appropriate data handling and adequate investments in cybersecurity,” the IMF paper titled – Stacking up the Benefits: Lessons from India’s Digital Journey, said.

The concept of privacy also involves questions relating to security, surveillance, the freedom to participate on the internet, personal data, protection of personal data, and so on.

15.7 PRIVACY AND DATA

An important aspect of actually debating over a policy on digital data is to first understand the materiality of the substance at hand. What kind of a material substance is digital data? A Google search defines ‘data’ as “the quantities, characters, or symbols on which operations are performed by a computer, which may be stored and transmitted in the form of electrical signals and recorded on magnetic, optical, or mechanical recording media”, which implies that data is highly malleable substance which requires great amount of attention when an attempt is made to capture such a sprightly substance as property. The idea of data as property is central to the idea of protection of data. Data is constantly being generated through any digital activity. Data utilization to data production/generation reveals the

ephemeral nature of data. Yet, data is not technically short lived, once it exists it has a long life where it can be consumed and contorted in many different ways. Thus, the management of data becomes an essential concern. Those who handle data can precisely be the individual, the state or the private owners of data. However, as incidental data is to our digital activities, it is as important for us to see the implications that data generation and handling comes with. A certain amount of responsibility is inevitably required in the movement and handling of data. The world is debating the centers of responsibility for handling data, as for example, USA does not have a single legislation for data protection but rather several other acts, mainly the US Privacy Act that also covers data legislation. As for Europe, the European Union passed the GDPR bill which is also a data protection and privacy act, concerning not just the geographical EU but also the EU economic area. India has been struggling to construct its own data protection bill and a committee was set up in order to come up with a data protection legislation for India. The Justice B.N. Srikrishna committee was a ten member committee that brought out the first draft of the data protection bill in 2018 and then by the year 2019 a final bill was prepared to be discussed and passed in the parliament by the 2020. It is important to understand that a data protection bill is not a legislation that can be created in isolation but only in the context of other existing legislations; and the data protection bill of every nation/region stands on its policy of privacy and revolves around its economic strategies and policies. The connection between privacy and personal data is nuanced, and it becomes more complicated when the state has a debilitating stance on the notion of privacy. In India, the right to privacy is a complex issue. In 2017, the Supreme Court made a landmark decision that under Article 21: Protection of Life and Personal Liberty, is the fundamental right to privacy. In the 2017 judgement^{*}, it was declared that the right to privacy also extends to information privacy of the citizens of India. We live in a world where privacy is a nuanced idea, what we choose to keep private and what we choose to share is practically not determined by us, though theoretically in a democracy it maybe. The state or the law decides, even in a democracy that what could come within the ambit of the public space, and private; and it has similarly translated into the domain of data. The state makes a connection between surrendering one's fingerprints and retina scans, and then getting access to food, income, and so on. This is not just the case for a country's government but also the case for private companies and institutions where biometric attendance is compulsory. The aforementioned examples are ones that have direct access to our "private" bodies, however an extension of

^{*} <https://indiankanoon.org/doc/91938676/?type=print>

our bodies is in our personal information, especially concerning our temperament and decision making. The questions that are then required to be asked are: at what point are we beginning to share our personal data; how much of it; when we consent to share it, then what happens with it, and finally how informed should we be of data transactions. Now, even though it may seem that the paper is looking at the issue from an individual's perspective, the same questions are applicable to companies, businesses and other entities. To resolve some of this and have a standardized idea of the answers to these questions is why the court asked the Sri Krishna Committee to come up with a draft on data protection. The draft and the bill, firstly draw a clear binary between the data fiduciary and the individual. The data fiduciary is the organization that processes one's data, and the individual generates certain data. The status between the two can be perceived in terms of a power relationship between the actual producer of the data and the processor of it, yet however the producer cannot be seen as the owner of their data in the actual sense. Clause six of the Data Protection Bill (hereafter, DPB), clearly states that all personal data can be processed for a "lawful" purpose. The key term in this transaction between the fiduciary and the individual is the consent, which needs to be given by an individual at the commencement of the processing of data.* One of the key aspects is that while taking consent is necessary, there is also a legal consequence of choosing to withdraw consent. Consent is an extremely important aspect of the bill, and it clearly states that processing data without consent is a violation. The act of taking consent from an individual also requires informing them on how the data is intended to be used. While, this seems fair, the bill has exemptions to the rule of consenting in giving one's data as well. The problem with a substance like data is that there is no absolute way of securing it in a certain spatial-temporal dimension. In fact, the prosperity of the global world today depends heavily on how data is shared between one country and another. In today's times, the economy of a nation is highly dependent on digital systems, data sharing, access and innovation. On the one hand, it is important for the government of a country to protect and secure the information of its citizens, and on the other hand it is also important that global data fiduciaries are involved in the economic growth of the country. In the current bill, chapter 7 is a very crucial chapter because it lays out the restrictions on data fiduciaries that process the personal data of individuals outside of India. The bill allows for data fiduciaries to process our data, however they are required to follow a strict set of guidelines, failing which the companies would be penalized. The restrictions are important and yet hassle-free

* Clause 11, Chapter 2

economic interactions also are. Thus, it would be important to see the country working with these set of norms, and then see whether or not these tight restrictions work.

15.8 LET US SUM UP

Thus, we see that privacy is an important and fundamental concept to life, and it is getting more complicated with the intervention of technology. In this unit we have seen that there is a lot of philosophical significance to the idea of privacy. We have delved into the philosophical and historical trajectory of privacy, the concept of consent in privacy, the philosophical critiques of privacy. Then we looked into the more contemporary and mainstream issues of privacy, i.e., the data protection bill in India and other such bills across the world.

15.9 KEY WORDS

Agency of an Individual : means all people have their own free will or autonomy to decide what they want to give access and permission to and what they don't.

Consent : agree or to give permission to something.

Right to Liberty : meant not being controlled.

Right to Life : entails protection from any kind of battery.

Right to Property : gave some idea of independent ownership to the individual.

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15.11 ANSWERS TO CHECK YOUR PROGRESS

Check Your Progress I

1. Aristotle makes a distinction between the *polis* or sphere of public activity and the *oikos* or sphere of domestic activity; more commonly we understand this as the distinction between the public and the private domain. Even the etymology of the English word "privacy" has its

roots in the Latin term “privatus” which means that which is distinct from the public; that which belongs to the individual and is not open to everyone else.

2. **Note:** With the help of the discussion, Learner should reflect upon this example.

Check Your Progress II

1. The three concepts are,

- a) Right to life; b) Right to liberty and c) Right to property. The right to life entails protection from any kind of battery; liberty meant not being controlled; and right to property gave some idea of independent ownership to the individual.

2. (**Note:** Elaborate your answer with the help of the following points,)

- Consent means to agree or to give permission to something.
- Consent is inherent to the agency to an individual.
- By “agency of an individual” we mean that all people have their own free will or autonomy to decide what they want to give access and permission to and what they don’t.
- Consent requires to be out of one’s own free will and not out of any kind of coercion or pressure.

Check Your Progress III

1. (**Note:** Elaborate your answer with the help of the following points,)

- Public and private divide has often essentialized women’s roles and duties, and restricted them for free action in any public space.
- Private sphere is used as a space for social and political marginalization of women, by restricting them to a certain spaces and roles.
- The patriarchal structures appropriate the private sphere in a way that women’s access gets restricted, and many a times women are exploited, and crimes against them are not known to the outside world as it happens within the domain of the private.
- Traditionally women have been given roles in private life like child care, nursing, household chores, domestic life management and so on.