PG SW S2-02 (DSC)

TWO YEAR MASTER'S DEGREE COURSE

(CBCS in Accordance with NEP 2020)

SEMESTER - II

HUMAN RIGHTS AND SOCIAL POLICIES

SOCIAL WORK

Surya Kumar Bhuyan School of Social Sciences

KRISHNA KANTA HANDIQUI STATE OPEN UNIVERSITY

Subject Experts

Prof. Rose Nembiakkim, Professor and Director, School of Social Work, IGNOU, Delhi

Prof. Sambit Mallick, HSS Department, Indian Institute of Technology Guwahati

Dr. Samhita Barooah, Department of Social Work, Tezpur University

Course Co-ordinator : **Dr. Mridusmita Duara,** KKHSOU

SLM Preparation Team

Units	Contributors
1	Aparna Das, Pragjyotish College, Guwahati
2, 3, 4	Dr. Khaleda Sultana Ahmed, Former Research Scholar, Gauhati University
5	Krishnamoni Sarmah, J. B. Law College, Guwahati
6	Padmeshwar Katani, Cinnamara College, Jorhat
7, 8	Dr Aniruddha Kr. Baro, Asst. Prof. Pandu College, Guwahati
9,10	Dr. Anjuman Ara Begum, Royal Global University, Guwahati
11, 12	Dr. Mridusmita Duara, KKHSOU
13, 14	Anusmita Das, Research Scholar, KKHSOU
15	Krishnamoni Sarmah, J. B. Law College, Guwahati

Editorial Team

Content : **Dr. Dhruba Pratim Sharma,** Gauhati University
Dr. Mridusmita Duara, KKHSOU

Language : **Dr.Hrishikesh Choudhury,** Rangia College, Kamrup
Dr. Mridusmita Duara, KKHSOU

Structure, Format & Graphics : **Dr. Mridusmita Duara, Dr. Jahnabi Devi,** KKHSOU

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Head Office : Patgaon, Rani Gate, Guwahati-781 017

City Office : NH 37, Resham Nagar, Khanapara, Guwahati- 781022, Web: www.kkhsou.in

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COURSE INTRODUCTION

This course is for the second semester of Master of Social Work (MSW) programme. The course is titled- Human Rights and Social Policies. This course in interdisciplinary in nature as it deals with a major universal issue i.e. the concept of human rights, evolution of human rights, agencies for protection of human rights, violation of rights, significance of social policies, its types and the constitutional provisions to deal with the legal aspects of rights and implementation of policies. Thus, knowledge of human rights and social policies is of utmost necessity for social workers. The main objectives of this course are: to acquaint learners to the concept of Human Rights and its significance in social work. To understand the role of national and international organizations in monitoring the protection of human rights. To facilitate the learners to critically analyze the challenges and issues of human rights violation with specific reference to Northeast India.To provide an overview of social legislation and familiarize students with pertinent legislations. To educate the learners about the existing judicial system and its functioning

In this course, there is detailed discussion of the different aspects of human rights, its violation and protection measures. The First Unit introduces the concept of human rights. The Second Unit discusses the evolution of human rights. The Third Unit explains the emergence of concept of rights in India. The Fourth Unit discusses the theoretical dimensions of human rights. The Fifth Unit highlights the NGOSs and UN Bodies in the protection of human rights. Sixth Unit analyses the role of WHO, ILO and UNESCO in dealing with specific human rights issues. In the Seventh Unit, there is explanation on the international concerns on the violation of human rights. The Eighth Unit describes the international actions for the protection of human rights. The Ninth Unit discusses the challenges for the protection of human rights. The Tenth Unit discusses the challenges of human rights violation in North east India. The Eleventh Unit introduces the concept of social policy. Social Policies are important for the promotion and protection of human rights. The Twelfth Unit discusses the significance of social planning for effective social policy. The Thirteenth Unit highlights the concept of social justice and the significance of the Millennium Development Goals. The Fourteenth Unit analyses the contributions of eminent social activists

for social justice. In the Fifteenth Unit, there is explanation on the Social Legislations, the Judicial system and the importance of the human rights commissions.

While going through the units of the block, you will find that unit is further divided into certain sections and sub-sections, wherever necessary, for your better understanding. Again, the units may carry certain activities after a particular section where needed. These "ACTIVITIES" will provide you the opportunity to practically apply your own thoughts based on the knowledge gained from reading the text in a particular section. Besides, in order to give you additional information on certain relevant topics, you will find a category called "LET US KNOW" after the sections in each unit. Another category that has been included at the end of each section of a particular unit is "CHECK YOUR PROGRESS". The purpose of this category is to help you to asses for yourself as to how thoroughly you have understood a particular section. You may then match your answers with "ANSWERS TO CHECK YOUR PROGRESS" given at the end of each unit. The section "FURTHER READING" in each unit contains the names of a few books which you might want to consult if you are interested in learning more elaborately about the concepts discussed in a particular unit. Furthermore, the category called "MODEL QUESTIONS" is intended to give you a hint of the type of questions you are likely to get in the examination.

CONTENTS

UNIT-1 : INTRODUCTION TO HUMAN RIGHTS **7-17**

Meaning, concept of Human Rights; nature of Human Rights: Sources of Human Rights

UNIT-2 : EVOLUTION OF THE CONCEPT OF HUMAN RIGHTS **18-35**

Evolution of Human Rights, Evolutionary Theories of human rights; three generations of human rights

UNIT-3 : EVOLUTION OF HUMAN RIGHTS IN INDIA **36-48**

Concept of Human Rights in Ancient India; human rights during early Mughal Period, British Period; Constituent Assembly and Human Rights

UNIT-4 : THEORETICAL DIMENSIONS OF HUMAN RIGHTS **49-58**

Universalistic Approach to Human Rights; Relativist Approach to Human Rights; Theories of Human Rights

UNIT-5 : NGOS AND UN BODIES IN THE PROTECTION OF HUMAN RIGHTS **59-71**

Role of NGOs in the Protection and Promotion of Human Rights in General; Role of the Amnesty International in the Protection and Promotion of Human Rights; Role of the Human Rights Watch in the Protection and Promotion of Human Rights

UNIT-6 : UN AND HUMAN RIGHTS **72-86**

Health and Human Rights, Role of UNESCO and ILO, Violation of Right to Health, WHO and Right to Health

UNIT-7 : INTERNATIONAL CONCERN FOR VIOLATIONS OF HUMAN RIGHTS **87-100**

International Bill of Rights, Universal Declaration of Human Rights, International Covenant on Civil and Political Rights; and the International Covenant on Economic, Social and Cultural Rights

UNIT-8 : INTERNATIONAL ACTIONS FOR THE PROTECTION OF HUMAN RIGHTS **101-110**

International Convention on Elimination of All Forms of Racial Discrimination; Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief,International Sanctions against Violations of Human Rights

UNIT 9 : CHALLENGES IN THE PROMOTION OF HUMAN RIGHTS **111-129**

Criminal Justice System, Police Behaviour and Judicial System, Rights of the Accused (Protection from Arbitrary Arrest, Fair and Speedy Trial)

UNIT 10 : HUMAN RIGHTS IN NE INDIA **130-149**

Violation in Northeast India with reference to Armed Forces Specials Powers Act (AFSPA). Role of Mass Media. Civil Rights Societies for protection of human rights.

UNIT 11 : SOCIAL POLICY **150-156**

Concept of social policy, Values underlined social policy and social planning based on the constitutional provisions. i.e. the Directive Principles of State Policy.

UNIT 12 : CONCEPT OF SOCIAL PLANNING **157-169**

Concept of social planning, Five year Plans, Multi-level Structure Planning. Human Development Index, Social Audit, Community Score Card.

UNIT 13 : BASIC CONCEPTS OF SOCIAL JUSTICE **170-180**

Social Justice- concept, nature and types; Millennium Development Goals (MDGs); Types of courts, Processes and Procedures for Justice and Rights: Public Interest Litigation, CrPC, Indian Penal Code

UNIT 14 : LEGAL AID AND LOKADALAT **181-195**

Human rights and justice, Contributions of JyotibaPhule, Mahatma Gandhi, B. R. Ambedkar, for social justice and rights, LokAdalat.

UNIT 15 : SOCIAL LEGISLATION AND THE JUDICIAL SYSTEM **196-223**

Social Justice, Indian Constitution: Preamble, Fundamental Rights, Directive Principles and Fundamental Duties. Human Rights Commissions.

UNIT 1: MEANING, NATURE AND SOURCES OF HUMAN RIGHTS

UNIT STRUCTURE

1.1 Learning Objectives
1.2 Introduction
1.3 Concept and Meaning of Human Rights
1.4 Nature of Human Rights
1.5 Sources of Human Rights
1.6 Let Us Sum Up
1.7 Further Reading
1.8 Answers to Check Your Progress
1.9 Model Questions

1.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- Explain the meaning of human rights
- Discuss the nature of human rights
- Describe the sources of human rights.

1.2 INTRODUCTION

Human Rights are the basic necessities for individuals to lead a dignified life. Each and every human being of this world are entitled to certain rights and privileges without which they cannot lead a dignified life. Human rights are inherent and inalienable rights of a person by virtue of the fact that he or she is a human being. These rights are equal to all persons irrespective of race, religion, nationality, language, sex or any other factor.Human rights enable one to respect the rights of others. In this sense human rights do not connote only the rights which are requested or demanded but also rights which

are respected and be responsible for dignified life of others. Denial of human rights creates havoc and unrest in the society, ultimately leading to the stage of violence and conflict within and between societies.In this unit discussion will be made on the meaning, nature, characteristics and evolution of human rights.

1.3 CONCEPT AND MEANING OF HUMAN RIGHTS

Human beings are rational beings. They, by virtue of their being human, posses certain basic and inalienable rights which are commonly known as human rights. These rights belong to them because of their existence. Therefore, these rights become operative with their birth. Human rights as birth right are part of all individuals irrespective of their caste, creed, religion, sex and nationality. In fact, the very foundation of human rights is based on the concept that every human being is born equal in this world and he or she must have the equal opportunity to pursue a life with dignity. These rights are essential for them as they give them freedom and dignity and help them in their physical, moral, social and spiritual welfare. Because of their immense significance to human beings, human rights are also sometimes referred to as fundamental rights, basic rights, inherent rights, natural rights and birth rights.

The meaning of human rights becomes more visible in the ways in which it has been defined. In simple language, human rights can be defined as the rights all people have by virtue of their being human. The rights which protect and maintain the dignity of individuals can be termed as human rights.

The United Nations Centre for Human Rights defines human rights as" those rights which are inherent in our nature and without which we cannot live as human being". The World Conference on Human Rights in 1993 in Vienna stated in the declaration that all human rights derive from the dignity and worth inherent in the human person, and that the human person is the central subject of human rights and

fundamental freedoms. D. D. Basu defines human rights as those minimum rights which every individual must have against the state or other public authority by virtue of his being a member of human family, irrespective of any other consideration.

According to Kim, human rights represent "claims and demands essential to the protection of human life and enhancement of human dignity and should therefore enjoy full social and political sanctions".

Louise Arbour, the High Commissioner of the Office of the United Nations High Commissioner for Human Rights says "Human rights are our common heritage and their realization depends on the contributions that each and every one of us is willing to make, individually and collectively, now and in the future".

Human rights are, therefore, those rights which belong to an individual as a consequence of being human. An individual can seek human rights only in an organized community, that is, a state where the civil social order exists. Human rights should be protected and made available to all. The functions of all the laws should be to protect them in the interest of the humanity.



CHECK YOUR PROGRESS

Q.1: State the definition of human rights provided by the United Nations Centre for Human Rights.

.....

.....

Q.2: Write briefly about the meaning of human rights.

.....

.....

1.4 NATURE OF HUMAN RIGHTS

Human rights are those rights those one has simply because he or she is a human being. These are considered as universal, equal, inalienable rights which every human being has regardless of any kind of distinctions. In other words it can be said that human rights are inalienable and universal in nature. Every individual must be entitled to these rights equally and without any kind of discrimination. These rights are basic minimum requirements for the survival of human beings. The basic foundation of the concept of human rights is that it is based on the respect for the dignity and worth of each human being. Each and every person of this world must show due respect to other's rights. Human rights can be enjoyed only within the state and the state authority must take initiative to enforce and protect these rights. At the same time these rights also set positive limitations on the state power and prevent the state authority from unnecessary encroachment in the life of the individual.

The characteristics of human rights can be mentioned as follows:

- Human rights are inalienable: Every human being is entitled to human rights due to the very existence of the person as a human being. They are inherent in all human beings irrespective of their sex, caste, creed, religion and nationality.
- Human rights are universal: Human rights are universal in nature. These are applicable to all without any consideration and without exception. Human rights are always been of universal concern of human being.
- Human rights are dynamic: Human rights are not static, they are dynamic. New perspectives and new forms of rights are being evolving with the changing time. Human rights are evolving over the years to meet the new challenges.
- Human rights are permanent: Human rights are permanent. They cannot be away from individual by any authority. These rights originate with the birth of individual.

- Human rights are not absolute: Though human rights are birth rights, they are not absolute. For the common good and greater interest of the society and the state certain restrictions can be imposed enjoyment of the rights. Again human rights should be enjoyed in such a manner that it does not lead to disturbance to the other people of the society.
- Human rights are of individual as well as collective rights: Human rights are rights of individual as well as group of individuals. Some of the human rights can be enjoyed by the person alone and some are enjoyed as a group. For example right to life is an individual right and right to development is a collective right.

VARIOUS KINDS OF HUMAN RIGHTS

Though human rights are classified into various categories, absolute and complete separation of these rights is not possible. These rights are indivisible and interdependent. All human rights are equally important for the survival and dignified life of human being. Classification of human rights into various kinds is made only for better understanding of human rights. Various kinds of human rights are discussed below:

- Civil and Political Rights: Civil rights refer to those rights which are related to the life, liberty and property of individuals. These rights are very essential for civilized and dignified life. Example of civil rights are- right to life, right to liberty, life to property etc. Political rights are those rights which provide opportunity to the individuals to take part in political affairs of the state. Some of the political rights are- right to vote, right to be elected, right to criticize government policy etc.
- Economic, Social and Cultural Rights: Economic, social and cultural rights are very important for survival of human being. Without these rights individual cannot lead a decent life. These rights are essential for ensuring social equality and social

justice. Example of some economic, social and cultural rights are right to work, right to education, right to social security, right to leisure, right to participate in the cultural life.

- Collective Rights: Collective rights are also called solidarity rights. These rights are enjoyed by groups at the community level. Some of these collective rights are - right to self determination, right to development, right to peace etc.

1.5 SOURCES OF HUMAN RIGHTS

In the contemporary time the main source of human rights is the UDHR adopted by the UN General Assembly in 1948. The UDHR is regarded as the yardstick for achieving human rights by all the countries. It contain basic civil, political, social, economic and cultural rights. Apart from the UDHR, two Covenants adopted by the UN, such as International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights are also considered as important sources of human rights. Various other human rights treaties and documents adopted by various international and regional organisations, such as the Council of Europe, the Organisation of American States, the European Union etc also constitute important sources of human rights. Some of the such documents are- the American Convention on Human rights of 1969, the European Convention of Human Rights and Fundamental Freedom of 1950, the African Charter on Human and People's Rights of 1981 etc.



UDHR : Universal Declaration of Human Rights



CHECK YOUR PROGRESS

Q.3: Write briefly about any two characteristics of human rights.

.....

.....

Q.4: Collective rights are enjoyed by individuals at ……. level. (Fill in the blank)

Q.5: Write briefly about civil and political rights.

.....

.....

Q.6: Write a short note on the sources of human rights.

.....

.....



1.6 LET US SUM UP

- Human Rights are the basic necessities for individuals to lead a dignified life. Each and every human being of this world are entitled to certain rights and privileges without which they cannot lead a dignified life. Human rights are inherent and inalienable rights of a person by virtue of the fact that he or she is a human being. These rights are equal to all persons irrespective of race, religion, nationality, language, sex or any other factor.
- Human rights are, therefore, those rights which belong to an individual as a consequence of being human. An individual can seek human rights only in an organized community, that is, a state where the civil social order exists. Human rights should be protected and made available to all. The functions of all the laws should be to protect them in the interest of the humanity.
- The basic foundation of the concept of human rights is that it is based on the respect for the dignity and worth of each human

being. Each and every person of this world must show due respect to other's rights. Human rights can be enjoyed only within the state and the state authority must take initiative to enforce and protect these rights. At the same time these rights also set positive limitations on the state power and prevent the state authority from unnecessary encroachment in the life of the individual.

- Some characteristics of human rights are- human rights are inalienable, human rights are universal, human rights are dynamic, human rights are permanent, human rights are not absolute, human rights are of individual as well as collective rights etc.
- Human rights are of various kinds, such- civil and political rights, socio-economic and cultural rights, collective rights etc.
- Some of the important sources of human rights are- Universal Declaration of Human Rights, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, the American Convention on Human rights of 1969, the European Convention of Human Rights and Fundamental Freedom of 1950, the African Charter on Human and People's Rights of 1981 etc.



1.7 FURTHER READING

1. Agarwal, H.O. (2006). *Human Rights.* Allahabad: Central Law Publications.
2. Stephen, R.M. (2002). *Human Rights: Concepts and Perspectives.* New Delhi: Concept Publishing Company.
3. Syed, M.H. (2003). *Human Rights: The New Era*. New Delhi: Kilaso Books.
4. Yasin, Adil-ul&UpadhayayArchana (2004). *Human Rights*. New Delhi: Akansha Publishing House.

1.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: The United Nations Centre for Human Rights defines human rights as" those rights which are inherent in our nature and without which we cannot live as human being".

Ans to Q. No 2: Human beings are rational beings. They, by virtue of their being human, posses certain basic and inalienable rights which are commonly known as human rights. These rights belong to them because of their existence. Therefore, these rights become operative with their birth. Human rights as birth right are part of all individuals irrespective of their caste, creed, religion, sex and nationality. In fact, the very foundation of human rights is based on the concept that every human being is born equal in this world and he or she must have the equal opportunity to pursue a life with dignity. These rights are essential for them as they give them freedom and dignity and help them in their physical, moral, social and spiritual welfare. Because of their immense significance to human beings, human rights are also sometimes referred to as fundamental rights, basic rights, inherent rights, natural rights and birth rights.

Ans to Q. No 3:

(i) Human rights are inalienable: Every human being is entitled to human rights due to the very existence of the person as a human being. They are inherent in all human beings irrespective of their sex, caste, creed, religion and nationality.

(ii) Human rights are universal: Human rights are universal in nature. These are applicable to all without any consideration and without exception. Human rights are always been of universal concern of human being.

Ans to Q. No 4: community.

Ans to Q. No 5: Civil and Political Rights: Civil rights refer to those rights which are related to the life, liberty and property of individuals. These rights are very essential for civilized and dignified life. Example of civil rights are- right to life, right to liberty, life to property etc. Political rights are those rights which provide opportunity to the individuals to take part in political affairs of the state. Some of the political rights are- right to vote, right to be elected, right to criticize government policy etc.

Ans to Q. No 6: In the contemporary time the main source of human rights is the Universal Declaration of Human Rights adopted by the UN General Assembly in 1948. The UDHR is regarded as the yardstick for achieving human rights by all the countries. It contain basic civil, political, social, economic and cultural rights. Apart from the UDHR, two Covenants adopted by the UN, such as International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights are also considered as important sources of human rights. Various other human rights treaties and documents adopted by various international and regional organisations, such as the Council of Europe, the Organisation of American States, the European Union etc also constitute important sources of human rights. Some of the such documents are- the American Convention on Human rights of 1969, the European Convention of Human Rights and Fundamental Freedom of 1950, the African Charter on Human and People's Rights of 1981 etc.



1.9 MODEL QUESTIONS

Q.1: State the meaning ofcollective rights.

Q. 2: Write about the meaning of human rights.

Q.3: Explain various kinds of human rights.

Q.4: Explain the sources of human rights.

Q. 5: Discuss the nature and characteristics of human rights.

*** ****** ***

UNIT 2: EVOLUTION OF HUMAN RIGHTS

UNIT STRUCTURE

2.1 Learning Objectives
2.2 Introduction
2.3 Evolution of Human Rights
2.4 Evolutionary Theories of Human Rights
2.5 Three Generations of Human Rights
2.6 Let Us Sum Up
2.7 Further Reading
2.8 Answers To Check Your Progress
2.9 Model Questions

2.1 LEARNING OBJECTIVES

After going through this, you will be able to-

- explain the evolution of human rights
- describe three generations of human rights
- discuss evolutionary theories of human rights.

2.2 INTRODUCTION

From the previous unit, we all have understood that human rights are the basic rights and freedoms without which no individual can develop his or her personality. In other words, human rights are the basic requirements of everybody's life. The concept of human rights is not a new concept. This concept has assumed its present shape by passing through various stages. In this unit we shall discuss evolution of human rights in detail.

2.3 EVOLUTION OF HUMAN RIGHTS

The term human right is comparatively of recent origin. But the idea of the human dignity is as old as history of human civilization.

Even, the history of mankind has been firmly associated with the struggle of individuals against exploitation. The roots for the protection of rights of human being may be traced back to the Babylonian laws. The Babylonian King Hammurabi had issued a set of laws to his people which were called Hammurabi's code, granted fair wage, offered protection of property and required charges to be provided at trial. This kind of precedent and legally binding document protected people from arbitrary prosecution and punishment. The Dharma of the Vedic period in India devised different sets of standards for human rights. The Jurisprudence of Xo-Tze and the teaching of Confucius in China also contained indication for the protection of human society. Thus all major religions have a humanist perspective that supports human rights and security.

- **Human Rights In Greco-Roman Period**

In philosophy, the development of the notion of natural rights of human being was contributed by the stoic philosophers. They first developed natural law theory and by virtue of it they explained the nature of human rights, that is, the right that every human possesses by virtue of being human. It may be noted that the citizens of the Greek City state enjoyed some basic rights even before the formulation of natural law theory by the stoic philosophers. They were in particular:

- Right to the freedom of speech
- Right to the equality before law
- Right to the equal law for all

According to Greek philosophers, the laws of nature were unwritten. According to them, human beings are born with inalienable human rights. The stoic philosophers formulated the theory of natural law after the breakdown of Greek states. The central notion of the stoic philosophy was that the principles of natural law were universal in their nature.The idea of justice, at the early stage in Greek

philosophy, was a guiding principle not only for the behaviour of the individual, but also for the society.In part because the Hellenstic stoicism played a key role in its formation and spread, Rome law had allowed the existence of a *Jus naturale* (natural law) and the pursuant to the *jus gentium* (law of nation), contain universal rights that extended beyond the rights of citizenship. According to the Roman jurist Ulpian, natural law was that which nature not the state assures to all human beings, Roman citizen or not. They believed in the universal brotherhood of man and they relate what they considered to be the 'innate reason 'of man to cosmic order.

- **Christian Period :**

At this stage natural law was considered as Will of God revealed to man by Holy Scriptures. According to Christian father of laws, government and property were the product of sin and so human laws were contrary to laws of God and hence should be discarded and ignored. Thus, Church as the exponent of divine laws could override the laws.

- **Human Rights in Medieval period :**

The concept of natural law or rights gained importance in the middle ages. It was St. Thomas Aquinas who made an important attempt to harmonise the teachings of the Church with those of natural laws. He distinguished between four kinds of law in his 'Summa Theology'. He observed that the law of nature was the discovery of eternal law through reason and reason was the manifestation of religion. However, St. Augustine advocated for natural rights and natural laws and their elaborations were directed towards safeguarding the supremacy of the Church rather than upholding the right of individuals.

- **Social Contractualist :**

The fundamental philosophy of human rights arose from the idea of positive law. According to Thomas Hobbes (1588-1679) natural laws were very vague and too open to vast differences of

interpretation. John Locke had often been seen as the important figure of the development of human rights thinking. He claimed that every human being have right to life, liberty and property. These ideas were based on the idea of rational, equal men and the natural rights.

The concept of natural right was pervasive in America. The American Declaration of Independence (1776) certainly reflectedLockean ideas, as it claims it is self –evident that all men are created as equal and all have right to life and liberty to pursue happiness.

- **Views of Positivist :**

After the decline of the natural law conception of human rights, positive law evolved and legislation became the main source of human rights. John Austin and Jeremy Bentham are the prominent writers of positivist law. Under positive law, instead of human rights being absolute, they can be given, taken away and modified by a society to suit its needs.

- **British Magna Carta (1215) :**

This great Charter provided a new framework for the relationship between the King and his subjects. For the first time it established that everybody, including the King, was subject to the law. Most importantly, it gave all 'free men' the right to justice and also introduced the concept of jury trial.

- **The Petitionof Rights(1628)**

This petition was sent by the English Parliament to King Charles I. It included the demands that the King could not impose tax on the people without the Parliament's consent nor imprison people without cause.

- **The Bill of Rights (1689) :**

This English document set out certain political and civil rights including the freedom to elect members to the Parliament, the

protection of free speech in Parliament that the King or Queen could not interfere with the law.

- **American War of Independence (1776) & French Revolution (1789) :**

Two major events took place during the 18th century in the United States of America (1776) and in France (1789) also played an important role towards the development of the concept of human rights. The Virginia Declaration of Rights (1776) provided a number of fundamental rights and freedoms. The United States Declaration of Independence included concepts of natural rights and stated that all men are created equal, that they are endowed with certain unalienable rights, such as right to life, liberty and the right to pursuehappiness.

Similarly, the French Declaration of the Rights of Man and Citizen set out the universal and inalienable rights of men. It stated that all are born equal and free, all can participate in civil and political life, can think and speak freely, be presumed innocent until proven guilty and that all have the right to own private property.

- **Human Rights in post World War period:**

In 1944, delegates from the United States, the United Kingdom, Soviet Union and the Republic of China- four of the allied powers in World War II met in Washington, DC to negotiate the parameters of the post war world and with the efforts of the world community the United Nations was established in 1945. The United Nations played a great role in standardizing human rights norms.The Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948,contained all those important rights which are considered as pivotal rights for human being. In 1966 the UN adopted the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

These two Covenants were binding on the signatory countries. Apart from these the United Nations has adopted other documents through which it has tried to standardize human rights norms which are universally accepted. Thus we can say that the concept of human rights has passed several stages of evolution and by passing though several stages it has assumed its present shape.

2.4 EVOLUTIONARY THEORIES OF HUMAN RIGHTS

In order to gain basic understanding of the concept of human rights one should look at certain theories of the subject so that the shifting priorities of rights during different phases of history could be observed. Some of the important theories regarding evolution of human rights can be discussed as follows:

- **Theory of Natural Rights:**

  This is the earliest theory of right and its origin can be traced back to the ancient Greeks. According to this theory, rights belonged to man by nature and thus are self-evident truth. They were considered as inborn, absolute, pre-civil and according to some, even pre-social. They can be asserted anywhere and everywhere. Thomas Paine, Grotius and John Locke, to name a few, are the main exponents of this theory. These theorists derived their ideas about rights from God, reason or prior moral assumption. To them every individual possess a unique identity and is expected to account his or her action as per own conscience.

  However, the critics of the natural right theory argue that rights are not abstract, absolute and unidentified phenomena. So restrictions upon rights create social condition as everyone has a share to develop his or her personality and correspondingly has his or her obligation to others. Right and obligation, in fact, are the two side of the same coin.

- **Legal Theory of Rights:**

  This theory is a reaction against the theory of natural rights. Advocates of this theory argue that the idea of natural law and the natural right are abstract. Thomas Hobbes, John Austin and Jeremy Bentham are the main profounders of this theory. According to them, rights are purely utilitarian concept and thus rules and regulations are necessary for the identification and protection of one's rights. Toward this end, every individual is to sacrifice certain rights and freedom for the general welfare of the society.

  The theory has been severely criticized on the ground that law alone does not create rights. It recognise and protects them. Truth in this theory lies in the fact that it enables individual to demand certain specific and recognized rights as guaranteed by the state.

- **Anti-Utilitarian Theory of Rights:**

  There are yet other theorists who strongly argue that the priority of well being of the majority as stated by the utilitarians is not the prime object of the state. Among them Dowrkin, Nozic and John Rawls are the leading ones.

  They hold the view that the welfare of the majority might lead to detrimental consequences as the welfare of a person or a group of persons is concerned. So there has to be proper reconciliation between the well being of majority and individual well-being for the better enjoyment of the social rights and individual rights. Today, the demand for right to development is perhaps the manifestation of the story.

- **Legal Realistic Theory of Right:**

  The legal realist theory of rights is of recent origin. It mainly originated in USA with the expansion of regulatory activities

followed by President Roosevelt's "New Deal Policy". A group of jurists such as Karl Liewellyn, Roscoe Pound and others discussed the point as to what law is in highly complex and industrialized society. These theorists did not propound a common theory of rights. Rather, they considered right as the end of both the interaction of prevailing more value of the society as well as the board- based international shearing of values.

- **Marxist Theory of Rights :**

  According to Marx, rights are simply a bourgeois concept and product of bourgeois capitalist society primarily designed to reinforce the predominant position of the ruling class. He regarded the state as a coercive agency to uphold the particular type of social organization and law is a tool of the state that perpetuates and safeguards the interest of the dominant group in the society. Karl Marx firmly believed that rights can exist and flourish only in classless society where all are equal and no one is exploiter. Social and economic rights are thus the main concern of this theory.

- **Socialist Welfare Theory of Rights:**

  According to the social welfare theory, rights are created by societywhich aim at realizing social welfare. Conditions which make the individual and society happy are rights and this should have precedence over customs, usages, traditions and natural rights. This theory looks at society through the angle of social welfare.The theory has great merit in upholding the principle of social welfare.Utilitarianswho supported the theory have made a practical approach to rights and have advocated legislations in different fields of rights.

- **Idealist Theory of Rights :**

The idealist or personality theorysays that human being needs the congenial external conditions for the development of his personality. T.H. Green, the idealist thinker of England said that rights are power necessary for the fulfillment of individual's vocation as the moral being. Krause, Henriki and wildehold that without rights human being cannot become his or her best self.

It is implied that rights arise in a society, and the rights of the individual are to be linked with the individual good and the common good of all. The theory linked with the moral development of man, and look rights essentially from the ethical point of view. The opportunities on rights are to be enjoyed by the individual and the society. Hence they are to be understood in a social context. As the individual wants to develop his personality, others in society have the similar aim.

According to the idealists like Kant and Green, conditions for the individual's ethical and moral development are created by the state. They expect the individual to surrender himself completely to the state.

- **Historical Theory of Right :**

As per the historical theory of rights, right are the results of historical evolution. In ancient time, rights were based on custom and usages. But in the modern state, rights are recognized and supported by law. In the course of ages, human being in society evolved certain usages, tradition and customs for the common goods and this unwritten form became the

basis of law, which give the rights to the individuals in actual written form. To the primitive man, customs were unwritten laws.

A custom which people go on following generation after generation become a customary right, and this provide the basis for law. The theory says that the several rights rose as a result of historical evolution. When the state was evolved, human being must have had certain customs and traditions hardened by time and this provided an evolution. Besides, certain rights are created by law, and they do not have history as the source of their origin.

All products of history or custom cannot be regardedas right or continued as rights. For example, in some countries in ancient time, buying and selling slave was a custom or right of slave dealers. So we can see that long-standing customs can come in the way of rights instead of becoming rights themselves.

Thus it is evident from the above theories that “there is not a single theory which can adequately explain the origin and nature of rights. Each theory is the product of its own time and in conformity with the genius of the people with whom the profounder of the theory were associated. There is some elements of truth in all such theories. But there is one external truth which cannot be ignored; that individual and social good go together. Society is an organic unit and welfare of the community is built upon the welfare of the individuals, both go hand in hand”.



CHECK YOUR PROGRESS

Q.1: Write briefly about the concept of rights during the medieval period.

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Q.2: Write briefly about the Marxist theory of rights.

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Q.3: Mention one important provision of the Petition of Rights (1628).

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2.5 THREE GENERATIONS OF HUMAN RIGHTS

Indivisibility and interdependence are the basic features of human rights. Therefore, there cannot be different kinds of human rights. All human rights are equal in importance and are inherent in all human beings. The classification of human rights into three generations was initially developed by a Czech jurist KaralVasak at the International Institute of Human Rights in Strasbourg in 1979. Vasak, inspired by the three normative themes of the French Revolution, classified human rights into three categories-

- First Generation – civil and political rights (Liberte)
- Second Generation- Economic ,Social and Cultural rights(Egalite)
- Third Generation – solidarity or collective rights (Fraternite) which includes right to development, peace, common heritage, protection of environment and humanitarian assistance.

First Generation of Human Rights:

First generation of human rights are fundamentally civil and political as well as individualistic in nature. The rights of the first

generation derive primarily from the seventeenth and eighteenth century reformist theories which are associated with the English, American and French Revolution. These rights are often called 'Blue Right' as they deal essentially with liberty and participation in political life. But, the genesis of these rights may be traced back to the Magna Carta (1215) and the Right of Englishmenas expressed in the English Bill of Right (1689). However, these rights were for the first time incorporated and manifested in the Universal Declaration of Human Rights (1948) and International Covenant on Civil and Political Rights (1966) from article 3 to 21.

The civil rights provide minimal guarantee of physical and moral integrity and allow individuals their own sphere of conscience and belief. For example - Right to life;Right to liberty and security of persons;Right to privacy;Right to home and correspondence;Right to own property;Freedom from torture, inhuman and degrading treatment ;Freedom of thought , conscience and religion and Freedom of movement.

Political rights are necessary in order to participate in the life of the community and society. For example-Right to vote ;Right to assemble ;Right to speech and expression ;Right to be elected ;Freedom from torture and abuse etc.

Although the nature of civil and political rights may be different but they are inter-related to each other. Both the rights are equally important.

Second Generation of Human Rights:

The second generation of human right emerged with the Bolshevik Revolution in Russia (1917). These rights are generally economic, social and cultural in nature. They are based on the ideas of equality and guaranteed access to essential social and economic goods, services and opportunities. These rights became increasingly a subject of international recognition with the effects of early

industrialization and the rise of working class. These led to the new demands and new ideas about the meaning of a life of dignity.

- Social rights are those that are necessary for full participation in the life of society. They include, at least, the right to education and the rights to find and maintain a family. However many other rightsare also regarded as civil right, for example, the right to recreation, health care and privacy and freedom for discrimination.
- Economic rights are the right to work, to an adequate standard of living, to housing and the right to pension. The economic rights reflect the fact that a certain minimal level of material security is necessary for human dignity.
- Cultural rights refer to a community's cultural way of life and the right to freely participate in the cultural life of the community and also the right to education.

Third Generation of Human Rights :

The third generation of human right emerged in the 20th century. These rights are of relatively recent origin and a positive response to the phenomenon of global interdependence. The third generation of human rights are called Green Rights as these rights found its manifestation in many international environment related programmers like – Stockholm Declaration (1972), The idea of the bases of the third generation of rights is that of solidarity and the rights embrace collective right of society or people- such as the right to sustainable development, to peace or to a healthy environment.

The specific rights that are most commonly included within the category of third generation rights are the right to development, right to self determination ; right to healthy environment ; right to rationality and sustainability ; right to participate in cultural heritage ; right to minority, ethnic, linguistic or religious group etc.

Thus, from the above discussion it can be said that the first generation of the human rights are negative in nature as these right



Stockholm Declaration :
Is the declaration of the UN Conference on the human environment adopted on June 16, 1972.

prohibits the state from denying the political rights and freedom to the individuals. The second generation of rights are largely positive in nature. The states have been placed in one form of obligation or another including the international obligation to provide for socio-economic and cultural rights.

The third generation of human rights refers to the cultural rights to minorities in a large country to preserve their cultural instruction and practice. It strengthens their allegiance and commitment to the nation. It promotes unity in diversity. Moreover, existence of variety of culture encourages various cultural groups to learn new language, to study literature of those languages, adopt new art forms and learn new skills. In short third generation rights seek to endow individual with the benefits of world citizenship.

Recently the fourth generation of human rights has also come up. These rights have developed to serve some of the particular needs of the present day. Examples of this category rights are gay right, lesbian rights etc.



CHECK YOUR PROGRESS

Q.4: Who divided the human rights into three generations of right?

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Q.5: Mention any three first generation of rights.

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Q.6: Write briefly about third generation of rights.

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2.6 LET US SUM UP

- The term human right is comparatively a recent origin. But the idea of the human dignity is as old as history of human civilization. Even, the history of mankind has been firmly associated with the struggle of individuals against exploitation. The roots for the protection of rights of human being may be traced back to the Babylonian laws. And the Dharma of the Vedic period in India devised different set of standards for human rights. The Jurisprudence of Xo-Tze and the teaching of Confucius in China also contained indication for the protection of human society. Thus all major religions have a humanist perspective that supports human rights and security.
- Evolution of human rights to a more comprehensive form took a long period of time. Its origin can be traced back to the ancient thought and philosophical concepts of 'natural law' and 'natural rights'. Some of the important documents of the early period which contained human rights provision are- the Magna Carta of 1215, the American Declaration of Independence of 1776, the French Declaration on the Rights of Men of 1789.
- The concept human rights evolved in the proper sense of the term with the establishment of the United Nations. The United Nations Charter fully universalized the whole concept of human rights. Some of the important documents adopted by the UN in the field of human rights are- the Universal Declaration of Human Rights in 1948, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 1966.
- There are various theories regarding evolution of human rights.
- The evolution of human rights can also be discussed in terms of Three Generations of Rights. The first generation rights are the earliest form of rights that emerged in Europe in the 18th

century and these rights are basically civil and political rights such as right to life, liberty and property, right to vote, right to be elected etc. The second generation rights emerged with the working class movement in the 19th century and these rights are fundamentally social, economic and cultural in nature such as right to employment, right to equal wages, right to social security etc. The third generation human rights, emerged in the 20th century, are group rights and developed as a result of global consensus on some particular issues. Some of these rights are- right to self determination, right to a healthy environment, right to sustainable development etc.



2.7 FURTHER READING

1. Agarwal, H.O. (2006). *Human Rights.* Allahabad: Central Law Publications.
2. Syed, M.H. (2003). *Human Rights: The New Era*. New Delhi: Kilaso Books.
3. Yasin, Adil-ul&UpadhayayArchana (2004). *Human Rights*. New Delhi: Akansha Publishing House.



2.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No. 1: The concept of natural law or rights gained importance in the middle ages. It was St. Thomas Aquinas who made an important attempt to harmonies the teaching of the Church with those of natural laws. He distinguished between four kinds of law in his 'Summa Theology'. He observed that the law of nature is the discovery of eternal law through reason and reason is the manifestation of religion. However, St. Augustine advocated for natural rights and natural laws and their elaboration were directed towards safeguarding the supremacy of the Church rather than upholding the right of individuals.

Ans to Q. No. 2: According to the Marx, rights are simply a bourgeois concept and product of bourgeois capitalist society primarily designed to reinforces the predominant position of the ruling class. He regarded the state as a coercive agency to uphold the particular type of social organization and law is a tool of the state that perpetuates and safeguards the interest of the dominant group in the society. Karl Marx firmly believed that rights can exist and flourish only in classless society where all are equal and no one is exploiter. Social and economic rights are thus the main concern of this theory.

Ans to Q. No. 3: One important provision of the Petition of Rights was that the King could not impose tax on the people without the Parliament's consent nor imprison people without cause.

Ans to Q. No. 4: Czech Jurist KaralVasak

Ans to Q. No. 5: Right to life;Right to liberty and security of persons;Right to privacy.

Ans to Q. No. 6: The third generation of human right has emerged in the 20th century. These rights are of relatively recent origin and a positive response to the phenomenon of global interdependence. The third generations of human right are called Green Rights as these rights found its manifestation in many international environment related programmers like – Stockholm Declaration (1992), The idea of the basses of the third generation of right is that of solidarity and the right embrace collective right of society or peoples- such as the right to sustainable development, to peace or to a healthy environment. The specific rights that are most commonly include within the category of third generation rights are the right to development, right to self determination ; right to healthy environment ; right to rationality and sustainability ; right to participate in cultural heritage ; right to minority, ethnic, linguistic or religious group etc.



2.9 MODEL QUESTIONS

Q.1: Write briefly about the theory of natural rights.

Q.2: Writebriefly about the evolution of human rights in the post world war period.

Q.3: Explain the three generations of human rights.

Q.4: Discuss the evolution of human rights.

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UNIT 3: EVOLUTION OF HUMAN RIGHTS IN INDIA

UNIT STRUCTURE

3.1 Introduction
3.2 Learning Objectives
3.3 Concept of Human Rights in Ancient India
3.4 Human Rights During Early Mughal Period
3.5 Human Rights During British Period
3.6 Constituent Assembly and Human Rights
3.7 Let Us Sum Up
3.8 Further Reading
3.9 Answers to Check Your Progress
3.10 Model Questions

3.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- Explain the status of human rights in ancient India
- Describe the human rights situation in India during Mughal period
- Discuss the movement for human rights in India during British period with special reference to the Constituent Assembly.

3.2 INTRODUCTION

India, being one of the larger democratic countries of the world, has tremendous responsibility towards protection and promotion of human rights of its people. The Universal Declaration of Human Rights adopted by the United Nations in 1948 is regarded as the universal yardstick for measuring states' efforts regarding human rights. As a responsible member of United Nations, India strives to follow all the human rights norms enshrined in the Declaration. Framers of the Indian Constitution incorporated a number of provisions in the

Constitution for the promotion and protection of human rights. Infact, we can say that in India respect for rights and freedom of individual can be traced back right from the ancient period. In this unit we shall discuss human rights movement in India.

3.3 CONCEPT OF HUMAN RIGHTS IN ANCIENT INDIA

Although the terminology of Human rights is recent in origin, the idea of Human Rights is as old as the history of human civilization.The concept presently known Human Rights is previously known as 'Natural Rights' and 'Rights of Man'. Human Rights can be termed as a twentieth century name for what has been traditionally known as natural rights or the rights of men. The term rights of men have been the concern of all civilization from time immemorial.

In Vedic period, the Dharma was the hidden instrument for protection of Rights of men. The great Roman Jurist Cicero told us that the Greek stoics, around 200-300 years B.C. developedwhat we now consider as basic human Rights. Moreoverin ancient scriptures there had been references to the basic human rights, though they were not referred to by that name. The rich legacy of historical tradition and culture of India occupied human rights jurisprudence. India had embedded the human rights in its deep-rooted tradition since time immemorial whereas the term has been discovered by west in recent times.

Ancient India had a rich heritage of noble thinking. About 5000 years ago, ancient Indian philosophers and thinkers expounded a theory of higher moral law over and above positive law embodying certain values of universal validity like Dharma (righteousness), Artha(wealth), Karma(desires) and Moksha (salvation) with a view to establish a harmonious social order by striking a balanced social aspects of life. Many of ancient Indian legal philosophers were universalists, rationalists and above all moralists who evolved a system of legal theory which was based on higher values and ideals, i.e. on

their conception of Dharma. In ancient days, every aspects of life was regulated by the principle of Dharma.Since, Vedic ages, it is Dharma that impelled men to strive for righteousness.

It is praiseworthy to say that the ancient Indians were not indifferent or unaware of the concept of human rights. Society as well as people evolved centering around Dharma which was a model for the universal legal order.

3.4 HUMAN RIGHTS DURING EARLY MUGHAL PERIOD

Mughal emperor was established by Babar in the early 16th century i.e. 1526 AD and controlled much of the Indian sub-continent till early 18th century.With the Mughal rulers, specially with Akbar a new era began in the Mughal history in the field of human rights as a result of policy of "universal reconciliation and tolerance".Prime motto of Akbar was the welfare of his subjects. The European travelers who visited the Mughal emperor of that time highly appreciated Akbar'spassionate regard for rights and justice. His justice loving tradition was followed by his son Jahangir too. This trend initiated by Akbar came to be reversed by Aurangzeb, though the Marathans and the Sikhs opposed and fought the fanaticism of Aurangzeb.During this period principle of equality and justice were not given much importance. In this context, the thought of human rights entered into the minds of the non-Muslims which led to the emergence of Bhakti Movement in India. It revived and regenerated the old Indian value of truth, righteousness, justice and morality. Many great thinkers of India reinterpreted the Vedic Dharma to reestablish the supremacy of Indian Vedic values.



CHECK YOUR PROGRESS

Q.1: Write briefly about some values of universal validity prevalent during Vedic period.

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Q.2: State the policy adopted by Akbar in the context of human dignity and welfare.

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3.5 HUMAN RIGHTS DURING BRITISH PERIOD

In India, during colonial period increasing exploitation and dominance by the colonialists created a situation of violation of rights of the Indian people. The fundamental freedom of the people was in danger during the time of colonialism.This compelled the Indian people to think seriously in terms of promoting and protecting their rights. The Indian leaders as well as the people of India sought some accommodation between western nations of individual rights and good elements of Hindu tradition. Raja Ram Mohon Roy, founder of the BrahmoSamaj movements, advocated equality for all persons regardless of caste, class,sex. Swami Vivekananda, leader of the Ramakrishna Movement, supported equalityon the basis of Vedanta thought. Legendary poet KabiguruRabindraNath Tagore is another influential name in the human rights movement in India.

It is true that the modern version of human rights jurisprudence had taken birth in India during the British Rule. During the British rule human rights and democracy were totally demolished. People had no right to demand something for their needs even in democratic way. British rule debarred entry of Indians into high offices and deprived them of their political, social and economic rights. The role of courts wasdiscriminatory, judges were not impartial regarding Indians. During the British period resistance to foreign rule was

manifested in the form of demand for freedom, civil and political rights for the Indians. The colonial ruler took many repressive measures on Indian people which encouraged the fight for civil-liberties and the demand for constitutional guarantees for some fundamental rights.

With the formation of the Indian National Congress in 1885, freedom movement and the demand for the rights of Indian got accelerated. The demand for fundamental rights of the Indian people found place in the Constitution of India Bill, 1895 which was known as “Home Rule Document”. This Bill spoke about freedom of speech, right to privacy, rights to franchise etc. Amongst all the demands, only the demand for fundamental right of equality of opportunity in the public services regardless of race or religion were considered in the Government of India Act 1915.Although, all the proposals of this Bill were not granted, it was one of the courageous stands taken by the Indian National Congress on behalf of the people of India. Apart from this a series of resolutions were taken in hand by the Indian National Congress between 1917 and 1919 which also repeated the demand for civil rights and equality of status for Indians with the British people in India.The Indian National Congress at its special session held in Bombay in 1918 adopted a declaration of rights and presented it to the British government with a view that these rights would be incorporated in the new Constitution. In the year 1925 at the Kanpur Convention, demands were raised for civil, political, social and cultural rights such as freedom of speech, expression and assemble, free primary education, freedom of conscience and religion, gender equality etc.In 1927 the Madras Session of the Indian National Congress demanded incorporation of a declaration of fundamental rights in any future constitutional framework in India. The Nehru Committee under Motilal Nehru,in 1928, in its report clearly indicated that the first concern of the people of India was to secure fundamental rights. Later on,the Constitution of free India incorporated ten fundamental rights out of nineteen enumerated in the Motilal Nehru

report. The Karachi session of the Indian National Congress in 1931 adopted a comprehensive resolution on the theme of "Fundamental Rights and Duties and Economic and Social Change". In 1945 Sir Tej Bahadur Sapru Committee also submitted its report recommending that the Fundamental Rights 'must' be included in the Constitution of India.

LET US KNOW

The rights emphasized by the Motilal Nehru Committee report were :

- Personal liberty, inviolability of dwelling place and property;
- Freedom of conscience and of profession and practice of religion subject to public order and morality;
- Right of free expression of opinion and to assemble peacefully and without arms and to form association and unions subject to public order and morality;
- Right to free elementary education - maintained and aided by the state without distinction of caste and creed;
- Equality for all citizens before the law and in civil rights;
- Right of every citizen to the writ of *habeas corpus*;
- Protection in respect of punishment under ex-post factor law;
- No discrimination against any person on grounds of religion, caste or creeds etc;
- Equality of right to all citizens in the matter of access to, and use of public roads and other resorts;
- Freedom of combination and association for the maintenance and implementation of labour and economic conditions;
- Right to keep and bear arms in accordance with regulations; and
- Equality of rights to men and women as citizen.

3.6 CONSTITUENT ASSEMBLY AND HUMAN RIGHTS

The struggle of the Indians ultimately succeeded and in 1946 British Government announced that India would get freedom. Hence the process for making of the Constitution for free India was in progress. Under the Cabinet Mission Plan of 1946, elections were held for the constitution of the Constituent Assembly. Total 389 members were elected where 292 members represented the states and 93 represented the princely states and four were from the chief commissioner provinces. The Constituent Assembly first met in December 1946. Division of India into two countries, i.e – India and Pakistan decreased the total number of members to 299.



Fundamental Rights :
Are the rights guaranteed under part III. (Articles 12-35) of the constitution of India. It covers : right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and eductional right and right to constitutional remedies.

The Constituent Assembly appointed a total of 22 Committees to deal with the process of framing the Constitution. There were 8 major Committees and others were minor Committees. Amongst these Committees there was an Advisory Committee of Fundamental Rights, Minorities and Tribal and Excluded Areas headed by Vallabhbhai Patel. The Sub-Committees to deal with the issue of fundamental rights were - Fundamental Rights Sub Committee headed by J.B. Kripalani, Minorities Sub-Committee headed byHarendraCoomarMookerjee etc. TheAdvisory Committee of Fundamental Rights started its task of framing fundamental rightswith reference to the Constitution of Ireland and USA. They discussed the rights like justiciable and non justiciable. The final intent of the Advisory Committee was to provide as much freedom to individuals as it was possible in the light of circumstances of the country.

The framers of the Constitution of India covered up the matters relating to rights and others after thorough discussion in the Constituent Assembly. More or less the member of the Constituent Assembly were influenced by the thinking of Mahatma Gandhi, the father of the nation. The framers of the Indian Constitution tried to assure the people in general and the different sections of the society

in particular of a fair deal. They made the Constitution not only as a mechanism for governing the country, but also as an instrument for social change. A code of human rights was the centre topic of debate in the Constituent Assembly. The major sources of debate on human rights were the Bill of Rights of 1688, American Declaration of Independence of 1776, French Declaration of independence of 1789, Universal Declaration of Human Rights of 1948. After prolonged discussion, the Constituent Assembly deliberately adopted a formal declaration of fundamental rights in the Constitution of India.The Constituent Assembly rightly guaranteed to all the people of India justice - social, economic and political; equality of status of opportunity and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subjects to law a public morality and where in proper safeguards would be provided for the backward and minorities and tribal areas and depressed and other classes. The framers intended to make Indian Constitution available mandate of the Indian people's salvation, and to secure all persons' basic human rights. In Part III of the Indian Constitution, a list of Fundamental Rights for Indian people is inserted which are justiciable. Again in Part IV some rights are incorporated in the form of Directive Principles of State Policy which are non-justiciable.

So the promulgation of the Constitution by the people of India in January 1950 is watershed in the history of India. The Preamble, Fundamental Rights and Directive Principles of State Policy together provide the basic human rights for the people of India.



CHECK YOUR PROGRESS

Q.3: Who was the founder of the BrahmoSamaj movements?

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Q.4: Mention any two rights incorporated in the "Home Rule Document".

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Q.5: In which year the Indian National Congress adopted a comprehensive resolution on the theme of "Fundamental Rights and Duties and Economic and Social Change"?

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Q.6: Who was the chairperson of the Advisory Committee of Fundamental Rights, Minorities and Tribal and Excluded Areas.

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Q.7: The Directive Principles of State Policy are included in Part ……. Of the Indian Constitution.

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.....

3.7 LET US SUM UP

- Although the terminology of Human rights is a recent in origin, the idea of Human Rights is as old as the history of human civilization.The concept of presently known Human Rights is previously known as 'Natural Rights' and 'Rights of Man'. Human Rights can be termed as a twentieth century name for what has been traditionally known as natural rights or the rights of men.

- Ancient India had a rich heritage of noble thinking. About 5000 years ago, ancient Indian philosophers and thinkers expounded a theory of higher moral law over and above positive law embodying certain values of universal validity like Dharma (righteousness), Artha(wealth), Karma(desires) and Moksha (salvation) with a view to establish a harmonious social order by striking a balance social aspects of life.
- Many of ancient Indian legal philosophers were universalists, rationalists and above all moralists who evolved a system of legal theory which was based on higher values and ideals, i.e. on their conception of Dharma. In ancient days, every aspect of life was regulated by the principle of Dharma.Since, Vedic ages, it is Dharma that impelled men to strive for righteousness.
- During Mughal period, specially during the rule of Akbar a new era began in the Mughal history in the field of human rights as a result of policy of "universal reconciliation and tolerance". Prime motto of Akbar was the welfare of his subjects. His justice loving tradition was followed by his son Jahangir too.
- However during the period of Aurangzeb the trend initiated by Akbar was reversed. During this period principle of equality and justice were not given much importance.
- In this context the thought of human rights entered into the minds of the non-Muslims which led to the emergence of Bhakti Movement in India. It revived and regenerated the old Indian value of truth, righteousness, justice and morality. Many great thinkers of India reinterpreted the Vedic Dharma to reestablish the supremacy of Indian vedic values.
- In India, during colonial period increasing exploitation and dominance by the colonialists created a situation of violation of rights of the Indian people. The fundamental freedom of the people was in danger during the time of colonialism. This compelled the Indian people to think seriously in terms of promoting and protecting their rights.

- With the formation of the Indian National Congress in 1885, freedom movement and the demand for the rights of Indian got accelerated. The role of the Indian National Congress in the human rights movement in India is very significant. The Indian National Congress through its various sessions, resolutions and committees raised the voice of the Indian people for rights and freedom.
- With the formation of the Constituent Assembly the process of framing the Indian Constitution started. The Constituent Assembly emphasized the incorporation of rights and freedoms for the people of India in the Constitution.
- A code of human rights was the centre topic of debate in the Constituent Assembly. The major sources of debate on human rights were the Bill of Rights of 1688, American Declaration of Independence of 1776, French Declaration of independence of 1789, Universal Declaration of Human Rights of 1948. After prolonged discussion, the Constituent Assembly deliberately adopted a formal declaration of fundamental rights in the Constitution of India.
- The Constituent Assembly rightly guaranteed to all the people of India justice - social, economic and political; equality of status of opportunity and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subjects to law a public morality and where in proper safeguards would be provided for the backward and minorities and tribal areas and depressed and other classes.The Preamble of the Constitution, Fundamental Rights and Directive Principles of State Policy together provide the basic human rights for the people of India.



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5. Yasin, Adil-ul&Upadhyaya,Archana. (2004). *Human Rights.* New Delhi: Akansha Publishing House.



3.9 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: During Vedic period Indian philosophers and thinkers expounded a theory of higher moral law over and above positive law embodying certain values of universal validity like Dharma (righteousness), Artha(wealth), Karma(desires) and Moksha (salvation) with a view to establish a harmonious social order by striking a balanced social aspects of life.

Ans to Q. No 2: Policy of "universal reconciliation and tolerance".

Ans to Q. No 3: Raja Ram Mohon Roy

Ans to Q. No 4: Freedom of speech, right to privacy.

Ans to Q. No 5: 1931

Ans to Q. No 6: Vallabhbhai Patel

Ans to Q. No 7: IV



3.10 MODEL QUESTIONS

A) Very Short Questions

Q.1: Who was the chairperson of theFundamental Rights Sub Committee?

Q.2: Write briefly about the Home Rule Document.

Q.3: Mention any four rights included in the Nehru Report.

B) Short Questions (answer each question with 150 words)

Q.1: Write briefly about the concept of human rights during ancient India.

Q.2: Write briefly about the situation of human rights in India during Mughal period.

Q.3: Explain the role of the Constituent Assembly in the human rights movement in India.

C) Long Questions (answer each question within 300-500 words)

Q.1: Discuss the role of the Indian National Congress in the human rights movement in India.

Q.2: Describe the various phases of human rights movement in India during colonial period.

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UNIT 4: THEORETICAL DIMENSIONS OF HUMAN RIGHTS

UNIT STRUCTURE

4.1 Learning Objectives
4.2 Introduction
4.3 Universalistic Approach to Human Rights
4.4 Relativist Approach to Human Rights
4.5 Let Us Sum Up
4.6 Further Reading
4.7 Answers to Check Your Progress
4.8 Model Questions

4.1 LEARNING OBJECTIVES

After going through the units you will be able to-

- describe the universalistic approach to human rights
- examine the relativist approach to human rights.

4.2 INTRODUCTION

The concept of human rights has been a dynamic one. The notion of human rights has evolved with the changing times. Interpretation of human rights is integrally linked up with the respective historical background and the social environment of a community. However, despite variations in the interpretation of human rights, certain rights such as the right to life and freedom are universal in nature and applicable to all human societies. Moreover, ideological issues and the feminist perspective have also determined the nature of human rights to a great extent. Accordingly, in this unit, we shall learn about the various approaches to the study of human rights including the universalistic approach and relativist approach.

4.3 UNIVERSALISTIC APPROACH TO HUMAN RIGHTS

The Universalistic approach to human rights holds that human rights are universal. It means that human rights are universally applicable to all human beings. Each and every individual of this world is entitled to human rights without any kind of discrimination of sex, race, caste, class, culture or any other condition. With the establishment of the United Nations, the concept of human rights got a universal approach. The Charter of the UN recognises the universal nature of the human rights and proclaims “Universal respect for and observance of human rights and fundamental freedom for all without distinction as to race, sex, language or religion”. Besides this a number of initiatives on the part of the UN like the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Social, Cultural and Economic Rights also universally recognise that rights are inseparable parts of human lives. The existence of rights also implies that every individual and state has a duty to safeguard the rights of others. Along with this there is an enormous endeavour at the regional level also to protect the rights of individuals. We can mention here the names of regional instruments like- Rights and Fundamental Freedoms 1950, the American Convention on Human Rights, 1960, and the African Charter on Human and People’s Right, 1981.The existence and implementation of the instruments of human rights clearly indicate two things- the process of political acceptance and the legal codification of human rights.All these endeavours have universalised the concept of human rights and are now accepted by all countries, big and small, irrespective of their historical, social, economic and cultural differences. These rights embrace all civil, political, economic, social and cultural rights.

The universalistic approach to human rights has been criticized on a number of grounds. More particularly the advocates of the

relativist approach to human rights have put forward a number of arguments against theuniversalistic approach. They have stated that human rights are not universal, they differ from society to society. They argue that human rights are based on moral values of the society and each society differs from the other one in regards of values. And accordingly human rights also vary from place to place. On the basis of socio, political, cultural and historical conditions of the society, nature of human rights also differs. So all human rights cannot be universally and identically implemented in all societies.



CHECK YOUR PROGRESS

Q.1 : According to the Universalistic approach, human rights are applicable to all universally without any discrimination. (True/False)

.....

.....

Q.2: Mention the names of any three regional documents related to human rights.

.....

.....

Q.3: Mention the basic argument of the Universalistic approach regarding human rights.

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Q.4: State one criticism against the universalistic approach to human rights.

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4.4 RELATIVIST APPROACH TO HUMAN RIGHTS

The Relativists believe that human right is a dynamic concept varying across generation, time and situation. The concept of human

rights is in the state of constant evolution to meet the needs of changing generations, times and situations. The issues of human rights depend upon certain conditions and cannot be applied universally to all. They argue that the universalisation of rights does not fit well with the sovereign nation states, rather it suits more to the cosmopolitan global political community where individuals are regarded as citizens of the world. There are three competing Relativist models in international relations-

- Traditional Statist Model holds that state has an upper hand in implementing the human rights and human rights solely remain in the jurisdiction of sovereign nations. It is a peripheral concern for International relations.
- The Cosmopolitan Model maintains that along with international organizations, individuals and NGOs also can put substantive intervention in the gross violation of human rights.
- The International Model stresses on the evolving consensus among state and non-state actors alike on international human rights norms. International human rights activity is permissible only to the extent when authorised by formal and informal norms of international society of states.

The exponents of the Relativist approach believe that human rights are governed by some moral values, which are culture and history specific, rather than universal. As such they divide the world view on human rights into three groups- the First world or the western approach that emphasises civil, political and property rights; the Second world or socialist approach that emphasises social and economic rights and the Third world approach that emphasises self determination right and developmental rights. The relativist approach believes that issues of human rights are determined by several factors, such as history, economy and culture and these factors vary from society to society and time to time. And in such a varied contexts the universal notion of human rights is not applicable at all.

The relativist approach to human right is also criticized by scholars. Many scholars opine that the relativist approach is self-contradictory. On the one hand, it regards that the only source of moral validity are universal cultures and on the other hand, it does not accept any consistent universal moral judgement. Some scholars have also argued that unless there is a collective learning about what should be in the best interest of all human beings all over the world, there cannot be human rights in the true sense. The concept of human rights should absorb cultural differences. Human rights should be common for all.



CHECK YOUR PROGRESS

Q.5 : Mention the basic argument of the Relativist approachregarding human rights.

.....

.....

Q.6 : State the names of three Relativist models of international relations.

.....

.....

Q.7: Write briefly about the relativist's classification of world view on human rights.

.....

.....

Q.8: State one criticism against the relativist approach to human rights.

.....

.....



4.5 LET US SUM UP

- Human rights nurture human dignity. Human rights enable one to respect the rights of others. In this sense human rights do not connote only the rights which are requested or demanded but also rights which are respected and responsible for dignified life of individuals.
- There are various approaches of human rights, such as Universalistic approach, Relativist approach etc.
- The Universalistic approach to human rights holds that human rights are universal. It means that human rights are universally applicable to all human beings. Each and every individual of this world is entitled to human rights without any kind of discrimination of sex, race, caste, class, culture or any other conditions.
- The United Nations has played an important role in universalising the concept of human rights. It has adopted various documents like- Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Social, Cultural and Economic Rights to universally recognise that rights are inseparable parts of human lives.
- The Universalistic approach to human rights has been criticized on a number of grounds. More particularly the advocates of the relativist approach to human rights have put forward a number of arguments against theuniversalistic approach. They have stated that human rights are not universal, they differ from society to society. They argue that human rights are based on moral values of the society and each society differs from the other one in regards of values. And accordingly human rights also vary from place to place. On the basis of socio, political, cultural and historical conditions of the society nature of human rights also differ. So all human rights cannot be universally and identically implemented in all societies.

- The Relativist approach argues issues of human rights cannot be applied universally to all. Human right is a dynamic concept varying across generation, time and situation. The concept of human rights is in the state of constant evolution to meet the needs of changing generations, time and situation.
- There are three competing Relativist model in international relations, such as- Traditional Statist Model, Cosmopolitan Model and International Model.
- The relativist approach to human right is also criticized by scholars. Many scholars state that the relativist approach is self-contradictory. On the one hand, it regards that the only source of moral validity are universal cultures and on the other hand, it does not accept any consistent universal moral judgement. Some scholars have also argued that unless there is a collective learning about what should be in the best interest of all human beings all over the world, there cannot be human rights in the true sense. The concept of human rights should absorb cultural differences. Human rights should be common for all.



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4.7 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q. No 1: True

Ans to Q. No 2: Rights and Fundamental Freedoms 1950, the American Convention on Human Rights, 1960, and the African Charter on Human and People's Right, 1981.

Ans to Q. No 3: The Universalistic approach to human rights holds that human rights are universal. It means that human rights are universally applicable to all human beings. Each and every individual of this world is entitled to human rights without any kind of discrimination of sex, race, caste, class, culture or any other conditions.

Ans to Q. No 4: The advocates of the relativist approach to human rights have put forward a number of arguments against theuniversalistic approach. They have stated that human rights are not universal, they differ from society to society. They argue that human rights are based on moral values of the society and each society differs from the other one in regards of values. And accordingly human rights also vary from place to place.

AnsTo Q. No 5: The basic argument of the Relativist approach is that human rights are not universal.Human right is a dynamic concept varying across generation, time and situation. The concept of human rights is in the state of constant evolution to meet the needs of changing generations, time and situation. The issues of human rights depend upon certain condition and cannot be applied universally to all.

AnsTo Q. No 6: Traditional Statist Model, Cosmopolitan Model and International Model

AnsTo Q. No 7: The exponents of the Relativist approach believe that human rights are governed by some moral values, which are culture and history specific, rather than universal. As such they divide the world view on human rights into three groups- the First world or the western approach that emphasises civil, political and property rights; the Second world or socialist approach that emphasises social and economic rights and the Third world approach that emphasises self determination right and developmental rights. The relativist approach believes that issues of human rights are determined by several factors, such as history, economy and culture and these factors vary from society to society and time to time. And in such a varied contexts the universal notion of human rights is not applicable at all.

AnsTo Q. No 8: Many scholars state that the relativist approach is self-contradictory. On the one hand, it regards that the only source of moral validity are universal cultures and on the other hand, it does not accept any consistent universal moral judgement.



4.8 MODEL QUESTIONS

A) Very Short Questions

Q. 1: Mention the names of the documents adopted by the United Nations to universalise the concepts of human rights.

Q. 2: Mention the names of two regional documents related to human rights.

Q. 3: What is meant by universalisation of human rights?

B) Short Questions (Answer each question within 150 words)

Q. 1: Explain three Relativist models of international relations.

Q. 2: Write about the role of the United Nations in universalising human rights.

C) Long Questions (Answer each question within 300-500 words)

Q. 1: Critically discuss the relativist approach to human rights.

Q. 2: Discuss the universalistic approach to human rights.

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UNIT 5: NGOs AND UN BODIES IN THE PROTECTION OF HUMAN RIGHTS

UNIT STRUCTURE

5.1 Learning Objectives

5.2 Introduction

5.3 Role of NGOs in the Protection and Promotion of Human Rights.

5.4 Role of the Amnesty International in the Protection and Promotion of Human Rights

5.5 Role of the Human Rights Watch in the Protection and Promotion of Human Rights

5.6 Let Us Sum Up

5.7 Further Reading

5.8 Answers to Check Your Progress

5.9 Model Questions

5.1 LEARNING OBJECTIVES

After going through this unit, you will be able to –

- explain the role of NGOs in protecting Human Rights
- discuss the role of the Amnesty International in the protection and promotion of Human Rights
- examine the role of the Human Rights Watch in the protection and promotion of Human Rights.

5.2 INTRODUCTION

NGO and Human Rights are the two themes in the field of social set up. Non-governmental organizations are the non-profit organizations that operate independently of any government, typically to address social or political issue. It is a citizen based association usually to deliver resources or serve some social or political purposes.

Moreover, NGOs are taskoriented and driven by people with a common interest. NGOs perform a variety of service and humanitarian functions, bring citizen's concerns to government, advocate and monitor policies and encourage political participation through provision of information. In this unit, we shall discuss the role of the NGOs in protecting and promoting human rights with special reference to the role of the Amnesty International and Human Rights Watch.

5.3 ROLE OF NGOs IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

In general NGOs are formed according to the aspirations of the organizers. They work for the people. Two most important NGOs for Human Rights are Amnesty International and Human Rights Watch. Asian Watch (1985), African Watch are the other agencies for human rights protection. It is globalization that has given opportunities to the non-governmental organizations (NGOs) to emerge on the world stage as one of the key players in the process of promotion and protection of human rights around the world. Kofi Annan, former UN Secretary General said regarding the role of NGOs in the human society that "the 21st century will be an era of NGOs". Moreover the World Conference on Human Rights held in Vienna in Austria in 1993 accepted the significant responsibility of NGOs in the encouragement of the entire human rights. Various associations and NGOs around the globe have been working for protecting and preserving human rights or devote their labour in defending human rights to reach its end that rights of people are well protected. By organizing seminars, conferences and meetings on different aspects of human rights, NGOs can play an important role in order to mobilize public opinion through which it can create and spread awareness regarding human rights. Different NGOs can take initiative for inviting personalities of different discipline, for instance- administrative officers, jailors, police officers, judges, advocates, journalist etc. who can

deliver speech regarding the significance of human rights and freedoms. NGOs must create an environment of discussion so that the issues continue to be re-emphasized in terms of protection of human rights. NGOs may play a significant role by providing information to the society regarding all sorts of human rights violation cases, for instance- conditions of jails, treatment meted to prisoners etc. NGO's can play the role of a civil society by highlighting certain areas where human being can easily avail certain facilities with the help of which human dignity can be maintained.



NGO : Non-Governmental organization are such organizations which are formed independent from government.

5.4 ROLE OF THE AMNESTY INTERNATIONAL IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

Amnesty International (AI), a London based non-governmental organization focuses and pursues the matters relating to human rights. The Amnesty International was formed in July 1961, in Britain by Peter Benenson for protecting and preserving human rights. Now, the AI is an international organization formed with objective "to conduct research and generate action to prevent and end abuses of human rights, and to demand justice for those whose rights have been violated". Amnesty considers capital punishment to be "the ultimate irreversible denial of human rights". For its tremendous activities in the field of human rights protection and campaigning against torture, AI was awarded the Nobel Peace Prize in 1977 and the United Nations prize in the field of human rights in 1978. AI works for protecting human dignity and protecting and promoting rights of women, children, minorities throughout the world.

Aims and Objectives of the Amnesty International

Amnesty International is an organization for protection and promotion of Human Rights. Some of its specific aims are - i) To abolish death penalty. ii) To prevent extra judicial executions and disappearances. iii) To ensure secured and safe prison so that prisoners should get

international standard of human rights. iv) To ensure fair trial for all political prisoners. v) To ensure free education to all children world wide. vi) Decriminalisation of abortion.

Amnesty International symbolizes the progressive protection of human rights. It is a global movement of more than million people who fight for securing justice. It works for a world where human rights are available for all. Amnesty International is totally free from any political ideology, economic interest or religion. l Principles of the Amnesty International The founding principles of Amnesty International are1. Non intention on political questions. 2. Promoting human rights. 3. Promoting rights of prisoners also. 4. A strong commitment to gather facts about the various cases etc. l Main Goals of the Amnesty International Amnesty International is an organization of focusing on prisoners of conscience of global community of human rights defenders based on the principles of international solidarity , effective action for the individual victim, global coverage, the universality and indivisibility of human rights, impartiality and independence and democracy and mutual respect. Primary goals of the Amnesty International are- (1) Freeing all prisoners of conscience. (2) Ensuring prompt and fair trials for all political prisoners. (3) Abolition of death penalty, torture and other degrading punishment. (4) Ending extra judicial executions and disappearances. (5) Working to ensure justice to human rights in accordance with international standards. On principle, Amnesty International does not accept government funding of any kind. It remains independent of governmental, economic or political interest. Moreover, it has no religious affiliations and covers all sections of people irrespective of religious faiths. It is a self governing, democratic body that is led by a nine-members International Executive Committee (EIC).

The organization developed its first global campaing against torture in 1973, and in 1984 the United Nations (UN) passed the Convention against Torture, which called for governments to punish

those who committed torture within their jurisdiction and which took effect in June 1987. Later on, in February, 2001, 123 members nations have ratified the Convention. I Jurisdiction of the Amnesty International Main objective of the Amnesty International is to protect and preserve the rights of the victims according to the Universal Declaration of Human Rights. There are six key areas of the Amnesty International. These are - (i) Children, women, minorities and indigenous people's rights (ii) Ending torture (iii) Abolition of death penalty (iv) Rights of Refugees (v) Rights of prisoners of conscience (vi) Protection of human dignity.

Present Status of the Amnesty International Presently the Amnesty International has more than 7 million members and supporter. This independent organization has its own ideology and campaign for preservation of human rights. The purpose of the Amnesty International is to protect individuals wherever justice, fairness, freedom and truth are denied. The countries in which the Amnesty International has strong presence, members are organized as "sections". The sections co-ordinates basic AI activities normally with a significant number of members, some of whom are formed into "groups" and a professional staff under a board of directors. There are more than 52 sections worldwide. AI has organizational models like international members, international networks to promote specific themes or have a specific identity and "affiliated groups" for working as section groups. The International Secretariat (IS) of Amnesty International is responsible for the conduct and daily affairs of the Amnesty International under the direction of the International Board. Headed by a Secretary General, the International Board is run by approximately 500 professional staff members. The secretary operates several work programmes; international law and organizations, research; campaigns; mobilization and communications. In 1984 AI received the Four Freedom Award. In 1977 Amnesty International was awarded the Nobel Peace Prize for

contributing towards securing the ground for freedom, for justice, and thereby also peace in the world.



CHECK YOUR PROGRESS

Q.1: The Amnesty International was founded in the year …… . (Fill in the blank)

Q.2: In which year was the Amnesty International awarded the Nobel Peace Prize?

.....

.....

Q.3: Mention any two key areas of the Amnesty International.

.....

.....

Q.4: Write briefly about the role of NGOs in promotion and protection of human rights.

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5.5 ROLE OF THE HUMAN RIGHTS WATCH IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

Human Rights Watch (HRW) is an international organization that conducts research and advocacy on human rights. It was established at New York, of USA in 1978 which was formerly known as Helsinki Watch. It was founded by AryehNeier, Robert L. Bernstein, Jeri Laber. Head quarters of the Human Rights Watch is located at New York of the United States of America. Human Rights Watch is an international non-governmental organization that was established to defend and protect human rights. It is an independent international organization that works as a part of vibrant organized movement and advance the course of human rights for all. The working of the Human Rights Watch is guided by international human rights and humanitarian law and respect for the dignity of human being. The core value of

Human Rights Watch is "we are committed to our Mission of defending Human Rights world Wide". Human Rights Watch has branch offices in many cities around the world. Human Rights Watch is known for its accurate fact finding, impartial reporting, effective use of media and targeted advocacy, often in partnership with local human rights groups. It publishes more than 100 reports on briefing human rights conditions in some 90 countries covering local and international media. Sometimes it meets with government, the UNO, regional groups like the African Union, the European Union etc. The ground researchers completely monitor human rights conditions in some 80 countries around the world. They carry out their duty by talking with people who were either abused or who have witnessed abuse and they interact with human rights activists, lawyers, journalists, experts and government officials. Human Rights Watch defends the rights of people worldwide. More particularly, it investigates abuses, expose the facts widely and put pressure on those in power to respect rights and secure justice. It is an organisation for focusing international attention where human rights are violated. Human Rights Watch raises voice for the oppressed and hold oppressors accountable for their crimes. It has been working since its inception in the field of human rights protection and has fought to bring greater justice and security to people around the world. l Main Issues of the Human Rights Watch Campaign Human Rights Watch determines its goals and issues in connection with preservation and protection of human rights.

The main issues of the Role of NGOs in the Protection of Human Rights Unit 15 218 Human Rights Human Rights Watch are - (i) Abolition of excessive punishment (ii) Abolition of child labour (iii) Prevention of entry of children into military force (iv) Prevention of death in the police custody and judicial custody (v) Protection of civilians in the wartime (vi) End of police atrocity (vii) Rights of women and children (viii) End of trafficking of girls and women (ix) Prevention of mental torture (x) Problems of homeless and orphans etc.

Mission Statement of the Human Rights Watch

Human Rights Watch, a non profit and non governmental organization, defends the rights of the people worldwide. Human Rights Watch is an independent, international organization that works as part of vibrant movement to uphold human dignity and human rights for all. The core value of Human Rights Watch is that it is committed to defend human rights and humanitarian law and uphold the respect for the dignity of human beings worldwide. It fights against any kind of violation of human rights. Human Rights Watch publishes research reports on violations of human rights as set out by the Universal Declaration of Human Rights. Human Rights Watch has documented and reported various violations of the laws of war and international humanitarian laws. Moreover, each year Human Rights Watch presents the Human Rights Defenders Award to activists around the world in the field of human rights protection. The present executive director of Human Rights Watch is Kenneth Roth. It consists of different watches for each region of America, Africa, Asia, Europe and the Middle East and these Watches have local researchers that generate reports.



CHECK YOUR PROGRESS

Q.5: Head quarters of the Human Rights Watch is located at …….. (fill in the blank)

Q.6: Mention any four issues of the Human Rights Watch in connection to preservation and protection of human rights.

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Q.7: Write briefly about the role of the Human Rights Watch in promotion of human rights.

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5.6 LET US SUM UP

- Non-governmental organizations are the non-profit organization that operates independently of any government, typically to address social or political issue. It is a citizen based association usually to deliver resources or serve some social or political purposes.
- Various associations and NGOs around the globe have been working for protecting and preserving human rights or devote their labour in defending human rights to reach its end that rights of people are well protected.
- By organizing seminars, conferences and meetings on different aspects of human rights, NGOs can play an important role in order to mobilize public opinion through which it can create and spread awareness regarding human rights. NGOs must create an environment of discussion so that the issues continue to be reemphasized in terms of protection of human rights.
- NGOs may play a significant role by providing information to the society regarding all sorts of human rights violation cases, for instanceconditions of jails, treatment meted to prisoners etc. NGO's can play the role of a civil society by highlighting certain areas where human being can easily avail certain facilities with the help of which human dignity can be maintained.
- Amnesty International (AI), a London based non-governmental organization focuses and pursues the matters relating to human rights. The Amnesty International was formed in July 1961, in Britain by Peter Benenson for protecting and preserving human rights. AI works for protecting human dignity and protecting and promoting rights of women, children, minorities throughout the world.

- Amnesty International considers capital punishment to be "the ultimate irreversible denial of human rights". For its tremendous activities in the field of human rights protection and campaigning against fortune, AI was awarded the Nobel Peace prize 1977 and the United Nations prize in the field of human rights in 1978.
- Human Rights Watch (HRW) is an international organization that conducts research and advocacy on human rights. It was established at New York of USA in 1978 which was formerly known as Helsinki Watch. It was founded by AryehNeier, Robert L. Bernstein, Jeri Laber. Head quarters of the Human Rights Watch is located at New York of United States of America.
- Human Rights Watch is an international non-governmental organization that was established to defend and protect human rights. It is an independent international organization that works as a part of vibrant organized movement and advance the course of human rights for all. The working of Human Rights Watch is guided by international human rights and humanitarian law and respect for the dignity of human being.
- Human Rights Watch has branch offices in many cities around the world. Human Rights Watch is known for its accurate fact finding, impartial reporting, effective use of media and targeted advocacy, often in partnership with local human rights groups.
- Human Rights Watch defends the rights of people worldwide. More particularly, it investigates abuses, expose the facts widely and put pressure on those in power to respect rights and secure justice. It is an organisation for focusing international attention where the human rights are violated. Human Rights Watch raises voice for the oppressed and hold oppressors accountable for their crimes.



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5.8 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: 1961

Ans. to Q. No. 2: 1977

Ans. to Q. No. 3: (i) Abolition of death penalty (ii) Ending torture Role of NGOs in the Protection of Human Rights Unit 15 222 Human Rights

Ans. to Q. No. 4: Various associations and NGOs around the globe have been working for protecting and preserving human rights or devote their labour in defending human rights to reach its end that rights of people are well protected. By organizing seminars, conferences and meetings on different aspects of human rights, NGOs can play an important role in order to mobilize public opinion through which it can create and spread awareness regarding human rights. Different NGOs can take initiative for inviting personalities of different discipline, for

instance- administrative officers, jailors, police officers, judges, advocates, journalist etc who can deliver speech regarding the significance of human rights and freedoms. NGOs must create an environment of discussion so that the issues continue to be reemphasized in terms of protection of human rights. NGOs may play a significant role by providing information to the society regarding all sorts of human rights violation cases, for instance- conditions of jails, treatment meted to prisoners etc. NGO's can play the role of a civil society by highlighting certain areas where human being can easily avail certain facilities with the help of which human dignity can be maintained.

Ans. to Q. No. 5: New York city of the United States of America

Ans. to Q. No. 6: (i) Abolition of excessive punishment (ii) Abolition of child labour (iii) Prevention of death in the police custody and judicial custody (iv) Protection of civilians in the wartime.

Ans. to Q. No. 7: Human Rights Watch, a non profit and non governmental organization, defends the rights of the people worldwide. Human Rights Watch is an independent, international organization that works as part of vibrant movement to uphold human dignity and human rights for all. The core value of Human Rights Watch is that it is committed to defend human rights and humanitarian law and uphold the respect for the dignity of human beings worldwide. It fights against any kind of violation of human. Human Rights Watch publishes research reports on violations of international human rights as set out by the Universal Declaration of Human Rights. Human Rights Watch has documented and reported various violations of the laws of war and international humanitarian laws. Moreover, each year Human Rights Watch presents the Human Rights Defenders Award to activists around the world in the field of human rights protection. The present executive

director of Human Rights Watch is Kenneth Roth. It consists of different watches for each region of America, Africa, Asia, Europe and the Middle East and these Watches have local researchers that generate reports.



5.9 MODEL QUESTIONS

A) Very Short Questions

Q. 1: Who were the founders of the Human Rights Watch?

Q. 2: Who was the founder of the Amnesty International?

Q. 3: Write briefly about the jurisdiction of the Amnesty International.

B) Short Questions (answer each question in about 150 words)

Q. 1: Write briefly about the role of the NGOs in promotion and protection of human rights.

Q. 2: Write a short note on the main issues of the Human Rights Watch Campaign for human rights.

Q. 3: Write briefly about the aims and objectives of the Amnesty International.

C) Long Questions (answer each question in about 300-500 words)

Q. 1: Examine the role of the Amnesty International in the promotion and protection of human rights worldwide.

Q. 2: Discuss the role of the Human Rights Watch in the promotion and protection of human rights.

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UNIT 6: UN AND HUMAN RIGHTS

UNIT STRUCTURE

6.1 Learning Objectives

6.2 Introduction

6.3 Health and Human Rights

6.4 Role of UNESCO, ILO

6.5 Violation of Right to Health

6.6 World Health Organisation and Right to Health

6.7 Let Us Sum Up

6.8 Further Reading

6.9 Answers To Check Your Progress

6.10 Model Questions

6.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- explain the relationship between health and human rights
- examine the importance of right to health
- discuss the role of the World Health organization in ensuring right to health.

6.2 INTRODUCTION

Right to health is one of the important rights which helps an individual to lead a dignified life. Right to health constitutes basis of enjoying other rights by the individual. In this Unit we shall discuss the relationship between health and human rights, importance of right to health and the role of the World Health Organisation (WHO) in this regard.

6.3 HEALTH AND HUMAN RIGHTS

Right to health is an important human right. It refers to a universal minimum standard of health to which all individuals are entitled. The Universal Declaration of Human Rights (UDHR), 1948 states, “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social service.”

The Preamble of the Constitution of the World Health Organization (WHO) defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” The right to health is “the enjoyment of the highest attainable standard of health”. In the Article 12 of International Covenant on Economic, Social and Cultural Rights of the U.N. (1966), it is stated that the Right to Health includes:

- The reduction of the birth rate and of infant mortality rate and the healthy development of the child
- The improvement of all aspects of environmental and industrial hygiene
- The prevention, treatment and control of epidemic, endemic, occupational and other diseases
- The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

In 2000, the United Nations’ Committee on Economic, Social and Cultural Rights issued General Comment No. 14 which clarifies that ‘the right to health’ is not to be understood as a ‘right to be healthy’. Instead, the right to health is articulated as a set of both freedoms and entitlements which accommodate the individual’s biological and social conditions as well as the State’s available resources. Right to health is dependent on realization of other entitlements such as adequate food, work, housing, life, non-discrimination and human dignity. The right to health embraces a wide range of socio-economic

factors that promote conditions in which people can lead a healthy life and extends to the underlying determinants of health.

According to Mervyn Susser, a South African epidemiologist, right to health is a positive right, where society bears an obligation to provide certain resources and opportunities to the general population. Susser further sets out four provisions covered under right to health. These are – i) equitable access to health and medical services; ii) good social effort to promote equal health among different social groups; iii) means to measure and assess health equity; iv) equal socio-political systems to give all parties a unique voice in health advocacy and promotion.

Thus it can be said that right to health encompasses right to the highest attainable standard of physical and mental health which includes access to all medical services, sanitation, adequate food, decent housing, healthy working conditions and of course a clean environment. This right to health has the following implications:

a) It guarantees a system of health protection for all.
b) Everyone has the right to avail the health care facilities as per their needs and the living conditions that enables them to be healthy.

To secure the right to health the hospitals, clinics, medicines and doctors services must be accessible, available, acceptable and of good quality for everyone on an equitable basis, where and when needed. The health care facilities must be guided by the following principles:

- **Universal Access:** The health care facilities must be universally available and accessible to everyone.
- **Availability:** Health care infrastructure i.e. hospitals, trained health care professionals like doctors, nurses etc. must be available.
- **Acceptability and Dignity:** Health Care services must respect dignity of the individuals based on gender, age, culture etc.

- **Quality:** Health care facilities should be good in quality as well as provided in a timely, safe, and patient-centered manner.
- **Non-Discrimination:** Health care services should be provided without any discrimination on any grounds.
- **Transparency:** The health care services should be provided in a transparent manner so that everyone can avail the information about their health status and thus can claim quality health services.
- **Participation:** There must be provision of community participation while taking the policy decisions and implementation of health care schemes.
- **Accountability:** Health service providers must be accountable to the people who need health services.

6.4 ROLE OF UNESCO, ILO

Monitoring and implementation procedure of the International Covenant on Economic, Social and Cultural Rights (ICESCR): The Covenant breaks new ground in international treaty-making by linking the advancement of human rights directly to government policies to promote economic, social and cultural development and adopting technical co-operation programmes. One of the principal aims of the ICESCR is to ensure economic and social development and enhancement of enjoyment of human rights.

The Covenant provides not only for monitoring the implementation of its provisions through a system of State reporting but also through reporting by United Nations specialized agencies such as ILO, UNESCO, WHO, FAO. The Covenant entrusted the Economic and Social Council (ECOSOC) with the task of considering reports which the State Parties are expected to provide regularly to the United Nations regarding the steps taken by the State parties to promote and progress made in the enjoyment and protection of economic, social and cultural rights. The reporting system now in

force provides for each state party to submit an initial report within two years of ratifying or acceding to the Covenant, and thereafter to make reports at five-yearly intervals.

In 1978, the Economic and Social Council established a 15 member sessional working group to assist it in considering the reports submitted by state parties. The group was composed of representatives of State members of the Council which were also States parties to the Covenant. The working group, appointed a chairperson of ECOSOC, and became an elected body of governmental human rights experts in 1982. In 1985, the working group was transformed into the Committee on Economic, Social and Cultural Rights, with 18 members experts in the field of human rights, who serve in their personal capacity. Apart from considering the reports submitted by States parties, the Committee may make general recommendations to the Economic and Social Council based on its study of these reports and of those it receives from United Nations specialised agencies. The discussions on each report by a state party are summarized in the Committee's annual report to the Economic and Social Council.



CHECK YOUR PROGRESS

Q.1: State any two dimensions of the right to health as mentioned in the International Covenant on Economic, Social and Cultural Rights.

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Q.2: Mention any four guiding principles of health care facilities.

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Q.3: Mention any two provisions related to health incorporated in the Indian Constitution.

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Q.4: Write briefly about views of Mervyn Susser on right to health.

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6.5 VIOLATION OF RIGHT TO HEALTH

Today, millions of people in the world are deprived from the adequate health standard which indicates the violation of the right to healthy life. There are many factors which contribute to the violation of the right to health. These are:

- Armed and Ethnic Violence: Armed conflict, Ethnic or any other violence seriously affect the physical and mental health of the people. War or Violence causes not only physical loss; it may cause loss of mental health also.
- Poverty and Underdevelopment: Poverty or underdevelopment directly lead to the deprivation. Deprivation

from the socio-economic benefits may have a deep impact on the health and life of the victim.

- Discrimination: Discrimination on the grounds of ethnic, religion, gender or on any other ground is very detrimental to the right to health. Discrimination threatens physical and mental health of the people. It denies people's access to care altogether.
- Lack of access to Health Care facilities: In many cases people don't have the adequate access to the basic physical and mental health care and to immunization from infectious disease. There are various reasons for it. It may be due to poor economic conditions, lack of sufficient health care infrastructures, ignorance etc. The Government is also not building up sufficient health care facility for the poor people. As a result, a vast section of the people in the society are deprived of the right to health.
- Lack of Basic Sustenance: In our society a large number of the people are living in absolute poverty. They lack adequate food, clothing, housing and social security. Evidences show that absolute poverty results in poor access to health care and poor health status.
- Denial of Dignity: Respect for human dignity is an essential element of health and well being for all people. Denial of personal dignity may stigmatize the persons who are suffering from serious health ailment. Thus, this may be considered as the violation of the right to health.
- Lack of Education: Lack of education may lead to the ignorance of health care needs and also destroy the health status.
- Environmental Pollution: Living in a healthy environment is a fundamental human right. Deterioration of environmental standard may cause severe health impact not only on human beings but on all living beings. Environment pollutions and

degradation related problems like global warming, climate change, loss of vegetations etc. lead to the deprivation of health standard of the human beings and thus, these are considered factors for violation of right to health.

6.6 WORLD HEALTH ORGANISATION AND RIGHT TO HEALTH

The World Health Organisation (WHO) is a specialized agency of the United Nations Organisation (UNO). The WHO came into being on 7th April, 1948. Presently the WHO has 194 member states. The membership of WHO is open to all the members of the UNO. The States which are not the member of the UNO can also become member of the WHO after their application is approved by the World Health Assembly. Non sovereign states and territories can become its associate members.

Guiding Principle:

The guiding principle of WHO is that all people should enjoy the highest standard of health, regardless of race, religion, political belief, economic or social condition.

Constitution of WHO:

The WHO has its own constitution. The WHO constitution was adopted in the International Health Conference held in the year 1946, from June 19 to 22 July, and was signed on 22nd July 1946 by the 61 States and came into force on 7th April 1948. The Preamble of the WHO constitution set out the principles of the WHO which are:

- Health is a State of complete physical, mental and social well-being and not merely the absence of disease or infirmity.
- The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, and political belief, economic or social conditions.

- The health of all people is fundamental to the attainment of peace and security and is dependent on the fullest co-operation of individuals and States.
- The achievement of any State in the promotion and protection of health is of value to all.
- Unequal development in different countries in the promotion of health and control of diseases especially communicable diseases is a common danger.
- Healthy development of the child is of basic importance; the ability to live harmoniously in a changing total environment is essential to such development.
- The extension of the benefits of medical, psychological and related knowledge to all people is essential to the fullest attainment of health.
- Informed opinion and active co-operation on the part of the public are of the utmost importance for the improvement of the health of the people.
- Governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures.

Organisation:

The organization of WHO consists of the World Health Assembly, the Executive Body and the Secretariat. The World Health Assembly is composed of representatives of all the member states. The Executive Board consists of 31 members. These members are elected by the World Health Assembly from amongst persons most qualified by their technical competence in the field of health. The World Health Assembly appoints the Director General, who heads the Secretariat. The Head office of the WHO is located at Geneva, Switzerland.

Objectives of the WHO:

The main objective of the WHO is attainment by all people of the highest possible level of health. This objective is to be achieved by the combined efforts of the Governments and people and involves education concerning prevailing health problems.

Functions of the WHO:

The WHO performs the following functions-

- WHO tries to prevent the spread of disease and confine it to the boundaries of a state by providing assistance to the states. To prevent the spread of epidemic, sometimes the WHO gives emergency aid to the states to check it at the source.
- WHO also takes steps to cure the disease once it has spread. Apart from encouraging research, it finds out ways to disseminate information to all the members. Although the actual job of curing the disease has to be left to the national governments, the WHO in collaboration with the UNICEF has undertaken certain programmes itself also.
- WHO also provides help in preventing the diseases by imparting necessary training to personnels of different member states. WHO encourages research on insecticides which involves identification of strains and duration of infection.
- Who also helps in establishment of an environment that encourages and promotes good health. For the purpose it assists the member states to set up an efficient national health administration. It tries to impart education to the people regarding health matters through training programmes, seminars, conferences etc. To provide an incentive to the member states the WHO also undertakes pilot projects on problems like environmental hygiene, eradication of disease, control of disease etc.

WHO's primary role is to direct and coordinate international health within the United Nations system. The main areas of work of the WHO are health systems; health through the life-course; uncommunicable and communicable diseases; preparedness; surveillance and response etc. WHO supports countries as they coordinate the efforts of governments and partners including civil society organizations and the private sectors. From the very beginning WHO has brought together the worlds' top health experts to produce international reference materials and to make recommendations to bring better health to people throughout the world.



CHECK YOUR PROGRESS

Q.5: Write briefly about any two factors which contribute to the violation of the right to health.

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Q.6: What is the main objective of the World Health Organisation?

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Q.7: Mention any two functions of the World Health Organisation.

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6.7 LET US SUM UP

- Right to health is an important human right. It refers to a universal minimum standard of health to which all individuals are entitled. Right to health encompasses right to the highest attainable standard of physical and mental health which includes access to all medical services, sanitation, adequate food, decent housing, healthy working conditions and of course a clean environment.

- A number of international organisations, such as the United Nations, the World Health Organisation has recognized the importance of right to health and have expressed its importance through various Declaration, Covenant and Commission.
- There are certain guiding principles of health care facilities, such as- universal access, availability, acceptability and dignity, quality, non-discrimination, transparency, participation, accountability etc.
- The Constitution of India has incorporated a number of provisions to protect right to health of the Indian people.
- In the present world, right to health has been violated due to a number of reasons. Some of these factors are- armed and ethnic violence, poverty and underdevelopment, discrimination, lack of access to health care facilities, lack of basic sustenance, denial of dignity, lack of education, environmental pollution etc.
- The World Health Organisation (WHO) is a specialized agency of the United Nations Organisation. The WHO came into being on 7th April, 1948. The membership of WHO is open to all the members of the UNO. The guiding principle of WHO is that all people should enjoy the highest standard of health, regardless of race, religion, political belief, economic or social condition. The World Health Organisation performs a number of functions to ensure right to health of each and every person.



6.8 FURTHER READING

1. Chander, Prakash. & Arora, Prem. (1999). *International Relations*. New Delhi: Cosmos Bookhive (P)Ltd.
2. Yadav, Dr. Surya Narain. & Baghel, Dr. Indu. (2009). *Human Rights In The 21st Century*. New Delhi: Jnanada Prakashan (P&D).

3. *Right to Health*; viewed in website https://en.m.wikipedia.org/wiki/Right-to-health viewed on 23-5-2019

4. *World Health Organisation*; viewed in website https://www.who.int on 2-6-2019

6.9 ANSWERS TO CHECK YOUR PROGRESS

Ans To Q. No.1: a) The reduction of the birth rate and of infant mortality rate and the healthy development of the child.

b) The improvement of all aspects of environmental and industrial hygiene.

Ans To Q. No.2: (a) Universal Access: The health care facilities must be universally available and accessible to everyone.

(b) Availability: Availability of health care infrastructure i.e. hospitals, trained health care professionals like doctors, nurses etc.

(c) Acceptability and Dignity: Health Care services must respect dignity of the individuals based on gender, age, culture etc.

(d) Quality: Health care facilities should be good in quality and provided in a timely, safe, and patient-centered manner.

Ans To Q. No.3: (a) In the Article 38 of the Constitution it is stated that state will secure a social order for the promotion of welfare of the people. It also implies that providing affordable healthcare is one of the ways to promote welfare of the people.

(b) In the Article 39(e) it is stated that the State shall make sure that health and strength of the workers, men and women, and the tender aged children are not abused.

Ans To Q. No.4: According to Mervyn Susser, a South African epidemiologist, right to health is a positive right, where society bears an obligation to provide certain resources and opportunities to the general population. Susser further sets out four provisions covered under right to health. These are –

i) equitable access to health and medical services; ii) good social effort to promote equal health among different social groups; iii) means to measure and assess health equity; iv) equal socio-political systems to give all parties a unique voice in health advocacy and promotion.

Ans To Q. No.5: (a)Armed and Ethnic Violence: Armed conflict, Ethnic or any other violence seriously affect the physical and mental health of the people. War or Violence causes not only physical loss; it may cause loss of mental health also.

(b) Poverty and underdevelopment : Poverty or underdevelopment directly lead to the deprivation. Deprivation from the socio-economic benefits may have a deep impact on the health and life of the victim.

Ans To Q. No.6 : The main objective of the WHO is attainment by all people of the highest possible level of health.

Ans To Q. No.7: (a)WHO tries to prevent the spread of disease and confine it to the boundaries of a state by providing assistance to the states. To prevent the spread of epidemic, sometimes the WHO gives emergency aid to the states to check it at the source.

(b) WHO also takes steps to cure the disease once it has spread. Apart from encouraging research it finds out ways to disseminate information to all the members. Although the actual job of curing the disease has to be left to the national governments, the WHO in collaboration with the UNICEF has undertaken certain programmes itself also.



6.10 MODEL QUESTIONS

Q.1. What is meant by Right to Health?

Q.2. Write briefly about the provisions of the Indian Constitution related to right to health.

Q.3. Which Fundamental Right in the Indian Constitution implies the Right to Health to the citizens of India?

Q.4. Mention the main objective of the World Health Organisation.

Q.5. Describe the role of UNESCO and ILO with regard to human rights.

Q.6. Examine various factors that have contributed to the violation of the right to health.

Q.7. Discuss the role of the World Health Organisation.

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UNIT-7: INTERNATIONAL CONCERN FOR VIOLATIONS OF HUMAN RIGHTS

UNIT STRUCTURE

7.1 Learning Objectives
7.2 Introduction
7.3 International Bill of Rights
7.4 Universal Declaration of Human Rights
    7.4.1 Provisions of the Universal Declaration
    7.4.2 Significance of the Universal Declaration
7.5 International Covenant on Civil and Political Rights
7.6 International Covenant on Economic, Social and Cultural Rights
7.7 Let Us Sum Up
7.8 Further Reading
7.9 Answer to check your progress.
7.10 Model Questions

7.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- Get an idea on laws to protect human rights in the world
- Explain the different covenant of different rights (social, political cultural, economic etc)
- Analyze the importance of different covenants.

7.2 INTRODUCTION

Human rights are rights which are inherited by all human beings, irrespective of race, sex, nationality, religion, language, or any other status. The human rights include the rights to life, liberty, freedom, right to education, right to work and many more. However, human rights are violated in the world and exploitation of one section of the society is very inevitable. So, to protect the human rights there

was emergence of international human rights movement. The movement becomes more powerful when the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR) on 10 December 1948. It was drafted as common document for all the people so that everyone could exercise their own rights. It is very important because it included basic civil, political, economic, social and cultural rights that all human should enjoy without discrimination. The UDHR along with International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights is called as the International Bill of Rights. Therefore, this unit will give an understanding on the International Bill of Rights and will discuss its relevance to promote international human rights.

7.3 INTERNATIONAL BILL OF RIGHTS

Before the coming of UDHR, the idea for protection of human rights and freedom of individuals was derived in the Atlantic Charter (1941) and in the Declaration of the United Nations (1942). The Latin American states were the first to argue about an International Bill of Human Rights. They raised this issue when the founder members of the United Nations met at San Francisco Conference in 1945 to make the charter of the United Nations. However, a specific list of rights could not be made because of insufficient time and the super powers were not very interested in obligations and international action on human rights. But, most of the countries argued to have an obligation of the international community to promote human rights and as a result the charter came with some obligations which are most general and vague in nature.

After the chapter of United Nations came into force, the next phase was to implement it without discriminating the people on any ground such as race, sex, language, religion and others. In 1946, the Economic and Social Council come with the view that the objectives of the UN will be fulfilled if a provision made to create International

Bill of Rights and for its implementation. Therefore, it was decided to prepare an International Bill of Rights to fulfill the aim of UN and promote human rights. It was studies by the Commission on Human Rights under the Economic and Social Council. The Commission later appointed a Committee known as Drafting Committee for preparation of the draft of the Bill of Rights in January 1947.

The Economic and Social Council also prescribed the procedure for the preparation of the draft of International Bill of Rights. The Drafting Committee prepared a preliminary draft which was considered in the session held from December 2 to 17, 1947. However, because of differences of opinion in the committee, it was decided that the term 'International Bill of Human Rights' to be applied to combination of different documents. The Commission therefore set up two documents, i.e., a draft declaration consisting of a declaration of general principles on human rights, and a draft convention, which would be a convention of such special rights for legal obligations. The documents were prepared and adopted in different phases. The Universal Declaration of Human Rights was adopted in 1948 and two International Covenants were adopted in 1966. The covenants include two sets of rights as International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights entered into force in 1976. The UN General Assembly also adopted two Optional Protocols to the International Covenant on Civil and Political Rights in 1966 and 1989, and Optional Protocol to the International Covenant on Economic, Social and Cultural Rights in 2008. The combination of Universal Declaration of Human Rights and two International Covenants along with the Optional Protocols is known as the International Bill of Human Rights. The six major instruments of UN are collectively known as the International Bill of Human Rights which has opened the scope for other treaties and declarations towards human rights.



The Universal Declaration of Human Rights was adopted in 1948 and two International Covenants were adopted in 1966.

7.4 UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Universal Declaration of Human Rights (the UDHR) was adopted as a resolution of the UN General Assembly on 10 December 1948 after nearly two years of preparing the draft. The draft was prepared by the Drafting Committee which was appointed by the Commission on Human Rights. The UDHR consisted on 30 articles along with a preamble. The UDHR provided the basis for the formulation of covenant and conventions, declaration and recommendations on specific aspects. Small countries and non-Western perspectives found their voice and participation to discuss cultural and philosophical aspects because of the declaration. The Universal Declaration of Human Rights covers a large range of human rights, from civil-political rights to socio-economic-cultural rights and the individual and the collective rights. Universal Declaration is treated as reference for any to understand and implement rights at any corner of the world.

7.4.1 Provisions of the Universal Declaration

The main id.ea behind the declaration was to bring out the principle of equality and non-discrimination. The world has experienced devastating two world wars and after the Second World War, after the setting of UN, the world decided to bring out the equality to exercise the individual and collective rights. Such principles are well described in the initial articles (Articles 1, 2 and 7) of the Universal Declaration and in the two Covenants as well. However, the Universal Declaration can be divided into two kinds. *First*, it refer to civil and political rights (Article 3-21), which include: the right to life, liberty, security, freedom from slavery, equality before law, protection against arbitrary arrest, fair trial, right to property, political participation, marriage, freedoms of thought and religion,

opinion and expression, freedom to assemble, and right to take part in government. The *second* are economic, social and cultural rights (Article 22-29) which include: the right to work, equal pay, and right to form or join unions, right to adequate standard of living, right to education, and the right to participate in cultural rights.

The Universal Declaration of Human Rights consists of one preamble and 30 Articles. The preamble proclaims the Declaration as a common standard of achievement of all the people of different nations and all the nations as entity. The different articles are discussed below:

Article 1: All human beings are born equal in dignity and rights.

Article 2: "Everyone is entitled to all the rights and freedoms, set forth in the Declaration" without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 3: Everyone has the right to life, liberty and security of person.

Article 4: Everyone has the freedom from slavery and servitude.

Article 5: Everyone has the freedom from torture or cruel, inhuman or degrading treatment or punishment.

Article 6: Everyone has the right to recognition everywhere as a person before the law.

Article 7 to 11: Everyone has the right to an effective judicial remedy; freedom from arbitrary arrest, detention or exile; the right to a fair trial and public hearing by an independent and impartial tribunal; the right to be presumed innocent until proved guilty.

Article 12: Everyone has the freedom from arbitrary interference with privacy, family, home or correspondence; freedom from attacks upon honour and reputation; the right to protection of the law against such attacks.

Article 13 to 15: Everyone has the freedom to movement, the right to asylum; the right to a nationality.

Article 16 to 17: Everyone has the right to marry and to have a family; the right to own property.

Article 18 to 19: Everyone has the freedom of opinion and expression.

Article 20: Everyone has the right to peaceful assembly and association.

Article 21: Everyone has the right to take part in government and to equal access to public service.

Article 22: Everyone has the right to social security.

Article 23: Everyone has the right to work; the right to equal pay for equal work; the right to form and join trade unions.

Article 24: Everyone has the right to rest and leisure.

Article 25: Everyone has the right to a standard of living adequate for health and well-being.

Article 26: Everyone has the right to education, and

Article 27: Everyone has the right to participate in the cultural life of the community.

The last three articles 28 to 30, guarantees that everyone is entitled to a social and international order in which the human rights set forth in the Declaration may be fully realized; the rights are for securing recognition and respect of the rights and it also insists that each person has duties to the community in which he or she lives.

7.4.2 Significance of the Universal Declaration

When the Universal Declaration of Human Rights was adopted, it was made clear that this declaration does not interfere with the domestic jurisdiction of the individual states. However, the main idea of the declaration was to bring common

consciousness and recognition of essential condition for the promotion of respect for human rights of all. Now a day, the declaration is treated as a milestone in the legal and judicial systems. The Declaration insists that human rights and fundamental freedoms should be accessible for every human being of the world.

The Chairman of the Commission of Human Rights and the Principle representatives of the United States said: "It (the Declaration) might well become the international Magna Carta of all Mankind. Its proclamation by the General Assembly would be of importance comparable to the 1789 proclamation of the Declaration of the rights of Man in the Declaration of Independence of the United States of America and similar declaration made in other countries." The declaration can be said as the one of the greatest achievements of the UN.

The significance of the Universal Declaration:

- The Universal Declaration was the first of its kind in the history to guarantee human rights and to make people conscious to promote human rights. It tried to argue that human rights are essential for human development. The Declaration provides guidelines for the states and people to assess their rights.
- The Declaration helped the nations to develop their laws to promote human rights. It has become one of the most remarkable developments in the law of nations. It helped to create authority which is not only is a source of law but has come to have the force of law.
- The Declaration has received acceptance as political and moral authority in the entire world. No other instrument has ever received such acceptance in the society.
- The Declaration helped in eradicating discrimination, exploitation in many countries. For example, Apartheid policy of South Africa was challenged on the basis of the Declaration.



Economic and Social Council (ECOSOC)

The United Nations Economic and Social council is one of the six principal organs of the UN, which in responsible for coordineting the economic and social fields of the organizations.

- The Declaration influenced on the constitutions of new nations and regional agreements. The constitutions of Indonesia, Syria, Haiti, Libya etc borrowed most of the provisions from the Universal Declaration. In the process of regional agreements as well, the influence of the Declaration is visible.
- The constitution of India also influenced by Universal Declaration of Human Rights. The fundamental rights of the Indian Constitution in Part III are similar to the provisions of the Declaration.

Therefore, we can state that the Declaration has lot of significance in promoting human rights in the entire world. Thus, the Universal Declaration of Human Rights can be said as an international Magna Carta of Mankind.

7.5 INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the General Assembly on December 16, 1966 and which came into force on 23rd March, 1976. The ICCPR explains the political and civil rights which are indentified in the Universal Declaration of Human Rights. The states are to respect the procedures for their implementation, send periodic reports to the UN. Like the UDHR, the ICCPR also opens with principles of non-discrimination and equality which are stated in article 2 and 3 respectively. Along with ICCPR an (first) Optional Protocol was added which granted individual's right to petition to the monitoring body of the Covenant. Second Optional Protocol was also added to the Covenant to abolish the death penalty.

Provisions of the International Covenant on Civil and Political Rights

There are 53 articles in the covenant. The articles tries to ensure all individuals within the states the civil and political rights set out in the covenant. Article 1 insists that all people have the right of self determination, where there will be no-discrimination (Article 2) and ensure equality (Article 3) within the territories. The ICCPR has two sets of rights- derogable and non-derogable. In times of emergency, the states can suspend or limit certain rights (derogable) during war, internal conflict or other situations and on the other hand certain rights cannot be suspended which are called non-derogable rights. Article 4 focuses on the derogable rights. No one should engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein. The issues of rights to life, freedom from torture or cruelty, inhuman punishment (Article 6, 7), freedom from slavery (Article 8), right to liberty (Article 9), dignity for person (Article 10), right not to be imprisoned on the ground of inability to fulfill a contractual obligation (Article 11). Rights to liberty of movement (Article 12), alien may be expelled due to national security (Article 13), all are equal before court (Article 14), no punishment on account of retroactive application of law and the right to be recognized as a person before the law (Article 15, 16) and right to freedom of thought, conscience and religion is discussed in Article 18.

The other rights include, the right to hold opinion (Article 19), propaganda of war to be prohibited by law (Article 20), right to peaceful assembly (21), freedom of association (22), right to have family (23), right to nationality (24), political rights such as vote and contest election (25), equality before law (26) and rights of minorities (27). From Article 28-45, it is related to the establishment and functions of Human Rights Committee. It provided for the establishment of an 18-member Human Rights Committee to monitor the implementation of the Covenant. From article 48 to 53, it provided the procedures for the implementation of the articles.

The Human Rights Committee will try to ensure and protect the human rights of the individuals; however, their power is limited as protection of human rights depends mostly on the individual states. The states have to report to the committee about the developments on human rights issues. The Covenant ensures the political and civil rights of the individuals which are headed by the Human Rights Committee.

7.6 INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

We came to know that ICCPR tries to protect the basic rights of the individuals, the International Covenant on Economic, Social and Cultural Rights (ICESCR) tries to ensure the additional rights to individuals according to part of the Universal Declaration (Article 22-29). The ICESCR was adopted by the General Assembly on 16 December, 1966 and came into force on 3rd January, 1976. Like the ICCPR, the General Assembly has adopted Optional Protocol to the ICESCR in 2008. The covenant is legally binding for the member states and they have to submission of the periodic reports on the obligations under the covenants. The covenant has one Preamble and 31 Articles.

Provisions of the ICESCR

The Part I of the ICESCR provided similar type of provisions as ICCPR which include right to self-determination and non-discrimination. The Part II describes about the obligations of the member states and Part III concentrate on substantive rights enumerated in the Covenant. Some of the important economic, social and cultural rights protected by the ICESCR include, right to work (Article 6), right to favorable conditions of work, equal pay (7), right to form and join trade union (8), right to social security (9), protection of the family, including special assistance for mother and children (10), right to adequate standard of living (11), right to highest attainable

standard of physical and mental health (12), right to education (13), right to compulsory and free education (14), and right to participate in cultural life and enjoy the benefits of scientific progress (15).

Article 16 to 24 relates to the reports of the working of the State Parties and from Article 25 to 31 focuses on procedure for their implementation. ICESCR did not provide for a monitoring body as economic and social rights were essentially group rights to be implemented over a period of time which need no monitoring body. Eventually, the Economic and Social Council (ECOSOC) adopted a resolution in 1985, to establish a Committee of 18 experts to be elected for a period of four years. The main function of the Committee is to monitor the implementation of the rights protected in the Convention through the state reports and presents its concluding observations. CESCR is an important player in the international dialogue on such economic and social issues as poverty alleviation and structural adjustment programmes with agencies like the International Monetary Fund, the World Bank and the United Nations Development Programme (UNDP). This committee is also encourages interaction with and participation od NGOs working in the field of human rights and development.



7.7 LET US SUM UP

- Human rights are rights which are inherited by all human beings, irrespective of race, sex, nationality, religion, language, or any other status.
- The UDHR along with International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights is called as the International Bill of Rights.

- The Universal Declaration of Human Rights (the UDHR) was adopted as a resolution of the UN General Assembly on 10 December 1948 after nearly two years of preparing the draft.
- The main idea behind the declaration was to bring out the principle of equality and non-discrimination.
- The Universal Declaration of Human Rights consists of one preamble and 30 Articles. The preamble proclaims the Declaration as a common standard of achievement of all the people of different nations and all the nations as entity.
- The International Covenant on Civil and Political Rights (ICCPR) was adopted by the General Assembly on December 16, 1966 and which came into force on 23rd March, 1976. The ICCPR explains the political and civil rights which are indentified in the Universal Declaration of Human Rights.
- There are 53 articles in the covenant. The articles tries to ensure all individuals within the states the civil and political rights set out in the covenant.
- The ICESCR was adopted by the General Assembly on 16 December, 1966 and came into force on 3rd January, 1976. Like the ICCPR, the General Assembly has adopted Optional Protocol to the ICESCR in 2008.\



CHECK YOUR PROGRESS

Q.1: Difine human rights.

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Q.2 : Who and When was UDHR adopted?

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.....

Q.3 : Who and When ICCPR was adopted? when did it come to force?

.....

.....



7.8 FURTHER READING

1. Freeman, Michael., *Human Rights – An Interdisciplinary Approach,* Polity: London, 2002

2. Robinson, Mary., "The Universal Declaration of Human Rights: A Living Document", *Australian Journal of International Affairs*, vol. 52, no. 2, 1998.

3. Vijapur, Abdulrahim P, and K. Savitri., 'The International Bill of Human Rights', in Shashi Motilal and Bijayalaxmi Nanda, (eds.), *Understanding Social Inequality – Concerns of Human Rights, Gender and Environment,* Macmillan Publishers India Ltd., New Delhi, 2010, pp. 131-149.



7.9 ANSWERS TO CHECK YOUR PROGRESS

Ans To Q. No.1: Human rights are rights which are inherited by all human beings, irrespective of race, sex, nationality, religion, language, or any other status.

Ans To Q. No.2: The Universal Declaration of Human Rights (the UDHR) was adopted as a resolution of the UN General Assembly on 10 December 1948 after nearly two years of preparing the draft.

Ans To Q. No.3: The International Covenant on Civil and Political Rights (ICCPR) was adopted by the General Assembly on December 16, 1966 and which came into force on 23rd March, 1976.



7.10 MODEL QUESTIONS

A) Short Questions

Q1: What is Human Right?

Q2: What is International Bill of Human Rights?

Q3: What are the basic needs of the UN Covenants of the UDHR?

B) Long Questions

Q1: Discuss the provisions and significance of the Universal Declaration of Human Rights.

Q2: Bring out the basic differences between the UDHR and the Covenants.

Q3: Critically discuss the implementation mechanism of the UN Covenants on Human Rights.

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UNIT-8: INTERNATIONAL ACTIONS FOR THE PROTECTION OF HUMAN RIGHTS

UNIT STRUCTURE

8.1 Learning Objectives

8.2 Introduction

8.3 International Convention on Elimination of All Forms of Racial Discrimination (ICERD)

8.4 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief

8.5 International Sanctions against Violation of Human Rights

8.6 Let Us Sum Up

8.7 Further Reading

8.8 Model Questions

8.1 LEARNING OBJECTIVES

After going through this unit, you will be able to-

- Get an insight of different actions for the protection of human rights
- Understand what are discrimination and steps taken by international forum
- Explain the international sanctions against violation of human rights
- Why international sanctions and actions against violation of human rights are important.

8.2 INTRODUCTION

One of the important areas to discuss of UN activities is the promotion and protection of the Human Rights of the individuals which are mostly deprived. For promotion and protection of Human Rights, the UN has developed different set of institutions, treaties and many

declarations. By this system the UN could develop the rules and principles governing the rights and duties of individuals. The conventions and declarations made by the United Nations draw the customs and traditions of the various societies across the world. The declarations and the conventions derive their inspirations from the idea of justice, morality, dignity and duty of an individual.

The actions or the conventions try to protect sections of people from deprivation (e.g., women, children) or protection from different kinds of violations such as racial discrimination or it tries to promote civil-political-socio-economic and cultural rights. In this unit we are going to discuss some of the core conventions and declaration. However, there are many conventions and declarations adopted by the UN. The member states are obliged to provide information about implementation of rights and obligations through periodic reports. Many of the conventions are added with optional protocols which allow protection against specific type of violation of human rights.

Some of the major conventions adopted by the UN are

- International Covenant on Civil and Political Rights, 1966
- International Covenant on Economic, Social and Cultural Rights, 1966
- International Convention on the Elimination of All Forms of Racial Discrimination, 1965
- International Convention on the Elimination of All Forms of Discrimination Against Women, 1979
- Convention against Torture, Inhuman and Degrading Treatment or Punishment, 1984
- Convention on the Rights of the Child, 1989
- The Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990
- Convention on the Rights of Persons with Disabilities (CRPD), 2006
- International Convention for the Protection of All Persons from Enforced Disappearance, 2006



CRPD : The Convention on the Rights of Persons with Disabilities is an International Human Rights Freaty of the UN to protect the rights and dignity of persons with disability.

While there are many Conventions, this unit deals with one convention, one declaration and one international sanction. We are going to discuss the International Convention on Elimination of All Forms of Racial Discrimination, Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief and International Sanctions against Violation of Human Rights.

8.3 INTERNATIONAL CONVENTION ON ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ICERD)

According to Universal Declaration of Human Rights under Article 2, it is stated that the rights and freedoms provided in the Declaration shall be available to all the people irrespective of race, colour, sex and religion. Therefore, in 1963, the Assembly proclaimed the Declaration on the Elimination of All Forms of Racial Discrimination which was adopted as International Convention on the Elimination of All Forms of Racial Discrimination on 21 December 1965 and it came into force on 4 January 1969. The principle objective of the Convention is to bring fundamental equality of all persons and discrimination between humans on the basis of colour, race, sex or religion is treated as the violation of human rights. The Convention came into force because of two major events. First, it was the issue of discrimination faced by the blacks because of their race and colour. Secondly, various anti-Jewish and violent incidents occurred in parts of the world in 1959-60. The apartheid regime in the South Africa provided immediate ground for the adoption of the convention. Accordingly, the Convention tries to emphasis on both prohibition and prevention of racial discrimination.

Provisions of the Convention

The Convention consists of a preamble and 25 articles which are divided into three sections. The Article 1 defined the term ‘racial discrimination’ by describing as racial discrimination shall mean any distinction, exclusion, restriction or preference based on race, colour,

descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. Among the 25 articles some of the articles are very significant of which Article 2 states that state party shall not be engage in any act or practice of discrimination against any person, not to support racial discrimination and bring out policies to end up practices and racial discrimination in the country. Whereas the Article 5 states that each member states to ensure equality before the law and promote non-discrimination which further guarantees various civil-political and socio-economic rights without any discrimination based on race, colour, sex or national origin.

The Convention recommended for a committee of 18 independent experts to look into the process of implementation under the Article 8 of the Convention and the member states have to submit periodic report to the committee. The Convention under Article 11 stated that if a State Party considers that another State Party is not giving effect to the provisions of the Convention, it may bring mater to the attention of the Committee. This Convention is one of the unique Conventions as it provides the system of individual communication system which is stated in the Article 14. Because of such initiative the Convention could influence several countries to change their legislations. The states have taken additional measures to prevent or to stop racial discrimination.

The Convention is such type of treaty which concerned only one type of violation of human rights, which is racial discrimination. Though it concentrate on only one issue, but the significance of the Convention lies in the fact that it has provided legal framework to many of the states to address the problem of racial discrimination which gradually helped the world to reduce racial discrimination, racial ideology and the idea of racial superiority.

8.4 DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND DISCRIMINATION BASED ON RELIGION OR BELIEF

The Covenant on Civil and Political Rights under Article 27 provided that ethnic, religious and linguistic minority group shall not be denied the right to practice their own culture, religion and language. On the basis of the article and inspired by the provision General Assembly adopted the Declaration on the Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities on December 18, 1992. The Declaration (Preamble) stated that promoting and protecting the rights of the minorities and deprived sections contribute to the political and social stability of the states. It is a very brief document which consists of a Preamble and nine Articles. Some of the important rights stated in the Declaration are.

- The existence and the national or ethnic, cultural, religious and linguistic identity of minorities are to be protected within their respective territories by laws and other measures. (Article 1).
- Persons of the minorities have the right to practice their own culture, practice own religion and promote and use their own language. (Article 2).
- The Minority communities have the right to participate in religious, cultural, social and economic life effectively. (Para 2, Article 2).
- They have the right to participate effectively in decision making process in national and regional matter. (Para 3, Article 2).
- Right to establish and maintain their own associations.
- Minorities may exercise their rights individually as well as in community with other members of their group without any discrimination. (Article 3).
- State will ensure adequate opportunities to learn mother tongue and to participate in the development of their nation. (Article 4).

Article 5, 6, and 7 provide for national policies and programmes and mutual help among the member states. Article 8 tries to ensure that

while protecting the minorities, sovereign equality, territorial integrity and political independence should not hampered of the member states. The last Article bestowed responsibility on the specialized agencies and other organization to implement the Articles. The Declaration also tries to ensure co-operation among the member states. In the World Conference on Human Rights held in Vienna in 1993 insisted to all member states to promote and protect rights of persons belonging to national or ethnic, religious and linguistic minorities.

The Universal Declaration of Human Rights pronounces that all human beings are born free and equal which makes it clear that it outlawed the concept of hegemony of dominant groups and tries to ensure equality among all the communities, groups of the entire world. Therefore, the General Assembly, on November 25, 1981 proclaimed a special declaration to protect the group from religious discrimination which is known as Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief. The declaration ensures that religion or belief is one of the fundamental elements of every person and therefore it should be respected and guaranteed.

The Declaration stipulated that right to freedom of thought, conscience and religion came under Article 18 of the Covenant on Civil and Political Rights which include freedom to religion or belief individually or in community and have the right to worship, observance, practice and teaching on religious matter. Within the Declaration Article 2 insists that no one shall be subject to discrimination by any state, institution, group of person, or person on the grounds of religion or belief. Therefore, all the states will ensure to prevent and eliminate discrimination on the basis of religion or belief. Along with that Article 7 argues that States will include provisions in their national legislation to provide adequate rights and freedom to profess religion and belief and ensure freedom of religious practice without hampering equality among the individuals.

8.5 INTERNATIONAL SANCTIONS AGAINST VIOLATION OF HUMAN RIGHTS

Though international organizations try to implement the Human Rights in the entire world, it is highly observed that severe violations of Human Rights are inevitable in the present world structure. The serious human rights violations around the world have severe consequences. Therefore, to have a check to the process of violation of Human Rights, International Sanctions imposed on the member states. Human rights recognize moral norms or moral standards which are said to be fundamental rights of every human being. The international community can use sanctions to mould the behavior of a country or regime, when a member country violates human rights or which can hamper international peace and security.

There are many types of sanctions which may vary country to country. The most practiced sanctions include:

- Ban on weapons, protective attire, military vehicles etc.
- An embargo on the import and export of certain objectionable goods, software and Technology which might help in development of missiles or atomic weapons.
- Restrictions on certain people/companies to avail loans.
- Economic sanctions for violation of Human Rights.
- Freezing of assets.
- Travel and visa restrictions for certain people.

The sanctions can be imposed by the UN Security Council, other international organizations and the individual states. The idea of sanctions is first used by the Security Council and which was later adopted by the European Union (EU). EU can target those responsible for the violation of human rights and can take measures such as freezing assets and travel bans. The sanctions of EU help to achieve objectives such as promoting international security, peace building, promoting human rights, strengthening democracy and international law.

There are lots of debates on effectiveness of sanctions in International Humanitarian Law (IHL). The question arises what is the impact of the exercise of competences by the institutions entrusted with this task under the Geneva Conventions. It is argued that sanctions imposed because of the incapacity of the bodies responsible for the control of international humanitarian law to discharge their task. The sanctions can be made by the state parties for the violation of human rights. The Geneva Conventions and the other protocols clearly states obligations for the state parties. Violations of international humanitarian law fall under the purview of the state: it is on the state to prosecute and such violations. Therefore, the idea of human rights protection considered as a domestic matter and should be bind by the domestic law and national institutions. There is a process of economic sanctions against the member states if there is severe violation of human rights. However, it again conflicts with the other fundamental principles of international law, such as the principle of non-intervention and state sovereignty.

Operational Difficulties

Because of increasing human right sanctions, the world is facing challenges in business. The human right sanctions are fragmented and politicized for which one country's sanctions may result in penalties from another. The sanctions made by some country may again pose violation of human rights. For example, the coercive measures or economic sanctions on Cuba, Venezuela and Iran by United States violate human rights and the norms of international behavior. One of the experts, IdrissJazairy stated, "Regime change through economic measures likely to lead to the denial of basic human rights and indeed possibly to starvation has never been an accepted practice of international relations." So, different opinion emerged for the initiation of international and domestic sanctions. The process of sanctions has positive and negative impact. The positive impact is that, when sanctions are used,

the member states will try to regulate the implementation of human rights, on the other hand the negative impact is that while imposing sanctions it violates the other principles of international law such as non-intervention and state sovereignty.



8.6 LET US SUM UP

- One of the important areas to discuss of UN activities is the promotion and protection of the Human Rights of the individuals which are mostly deprived. For promotion and protection of Human Rights, the UN has developed different set of institutions, treaties and many declarations.
- The actions or the conventions try to protect sections of people from deprivation (e.g., women, children) or protection from different kinds of violations such as racial discrimination or it tries to promote civil-political-socio-economic and cultural rights.
- In 1963, the General Assembly proclaimed the Declaration on the Elimination of All Forms of Racial Discrimination which was adopted as International Convention on the Elimination of All Forms of Racial Discrimination on 21 December 1965 and it came into force on 4 January 1969.
- The Covenant on Civil and Political Rights under Article 27 provided that ethnic, religious and linguistic minority group shall not be denied the right to practice their own culture, religion and language. On the basis of the article and inspired by the provision General Assembly adopted the Declaration on the Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities on December 18, 1992.
- The Universal Declaration of Human Rights pronounces that all human beings are born free and equal which makes it clear that it outlawed the concept of hegemony of dominant groups and tries to ensure equality among all the communities, groups of the entire world.

- The serious human rights violations around the world have severe consequences. Therefore, to have a check to the process of violation of Human Rights, International Sanctions imposed on the member states.
- There are lots of debates on effectiveness of sanctions in International Humanitarian Law (IHL).



8.7 FURTHER READING

1. Robertson, A.H, and Merrills, J.G., *Human Rights in the World,* Universal Law Publishing Co., New Delhi, 2005
2. Symonides, Janusz, ed., Human Rights: International Protection, Monitoring and Enforcement, UNESCO, Paris, 2003.
3. Vijapur, Abdulrahim P., Ed., *Essays on International Human Rights,* New Delhi: SouthAsian Publishers, New Delhi, 1991.



8.8 MODEL QUESTIONS

A) Short Questions (Answer each question within 150 words)

Q1: What are International sanctions?

Q2: What is the work of International Convention on Elimination of All Forms of Racial Discrimination?

Q3: What are the basic needs of conventions and declarations?

B) Long Questions

(Answer each question within 300-500 words)

Q1: Discuss the provisions and significance of the International Convention on Elimination of All Forms of Racial Discrimination?

Q2: How religions play an important role in the process of violation of Human Rights?

Q3: Critically discuss the international sanctions on violation of human rights.

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UNIT 9 : CHALLENGES IN THE PROMOTION OF HUMAN RIGHTS

UNIT STRUCTURE

9.1 Learning Objectives

9.2 Introduction

9.3 Criminal Justice System

- 9.3.1 Objectives of Criminal Justice System
- 9.3.2 Components of the Criminal Justice System

9.4 Police Behaviour and Judicial System

- 9.4.1 Police Behaviour in Protection of Human Rights
- 9.4.2 Judicial System in Protection of Human Rights

9.5 Rights of the Accused

- 9.5.1 Constitutional Framework of rights

9.6. Protection from Arbitrary Arrest

9.7 Fair and Speedy Trial

9.8 Let Us Sum Up

9.9 Further reading

9.10 Answers to Check your Progress

9.11 Model Question

9.1. LEARNING OBJECTIVES

After going through this unit, you shall be able to

- understand concept of the Criminal Justice System;
- will know the rights of accused
- understand the role of police, behaviour and judicial system in protection of Criminal Justice System
- will understand the protections available against arbitrary arrest and detention
- will understand about the Fair and Speedy Trial

9.2. INTRODUCTION

Every crime reminds us the obligation of the state not only to inflict punishment to the offender under the law but to respect, protect and fulfil the human rights of the subjects. Crime often entails substantive harm to the people and to merely symbolic harm to the social order. As common understanding 'crime is a wrongful act against the victim and society'. In any civilised country, the criminal justice system is directed to protect the rights of individuals safeguarding the interest of the victim and the state against the intentional infringement of the basic social norms by unscrupulous person(s) or criminals. It is done by ensuring punishment to the accused under the law.



In the international viewpoint among others, victims/ accused rights have been also seriously recognised by the UN Declaration on the Basic Principles of Justice for Victims of Crime and abuse of Power, 1985.

In modern day criminal justice system across countries, some core rights for victims have been recognised, such as, the right to be heard and participate in criminal justice process, right to remedies and services, right to protection from intimidation and harassment, right to restitution from the offender and the state, right to speedy trial and right to enforcement of these rights. It is now realised that victims are to be treated with fairness, dignity and respect as they are truly essential part of the criminal justice process more than mere informant/witness for evidence and involves protection in the interest of human rights perspective. In the international viewpoint among others, victims/ accused rights have been also seriously recognised by the UN Declaration on the Basic Principles of Justice for Victims of Crime and abuse of Power, 1985[1]. The Republic of India is a signatory to several international human rights instruments such as the Universal Declaration of Human Rights (UDHR)[2], 1948, the International Covenants, viz,. International Covenant on Civil and Political Right (ICCPR). These documents impose on India the obligation of offering an effective criminal justice system to its citizens.