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Human Rights: Institutional Arrangements

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SEMESTER III

POLITICAL SCIENCE

SURYA KUMAR BHUYAN SCHOOL OF SOCIAL SCIENCES
KRISHNA KANTA HANDIQUI STATE OPEN UNIVERSITY

MASTER OF ARTS
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COURSE INTRODUCTION

This course of the Third Semester of MA Programme in Political Science of KKHSOU is titled "Human Rights: Institutional Arrangements." It is designed to help the learners to have a deep understanding of the various dimensions of Human Rights. It is supposed that the learners of the Master's Degree Programme in Political Science should have thorough knowledge about various aspects of Human Rights and Institutional Arrangements both National and International. Keeping this in view, the course begins with the concept of human rights and the various institutional arrangements which have significantly helped in the development and protection of human rights in the world.

The first unit of the course deals with the United Nations and human rights. In this unit, various human rights provisions of the UN Charter, the Universal Declaration of Human Rights and provisions and significance of Human Rights Council are discussed. The second unit of the course discusses the International Covenants and Protocols on Human Rights such as ICESCR, ICCPR and Optional Protocol. In this unit, the relationship of human rights with ICCPR and ICESCR are discussed. In the third unit, the United Nations High Commissioner for Refugees (UNHCR) are explained. Through this unit, the learners will be familiarised with the various aspects of the UNHCR, development of International Refugee Law and the rights of the refugees. The fourth and fifth units are related to the United Nations and the rights of women and children. The role of the United Nations in promoting and protecting rights of women: Various Declarations, Conventions adopted by the UN and World Conferences on Women are also discussed in the fourth unit. Similarly, the role of the United Nations in promoting and protecting rights of children: various declarations, conventions adopted by the UN are analysed in the fifth unit. The sixth unit deals with the United Nations and Indigenous People. It is related to the role of the UN in promoting and protecting the rights of the indigenous people, providing the declaration on rights of the indigenous people and permanent forum of indigenous issues. The seventh unit deals with the formation of International Labour Organization (ILO) and the role of the ILO in promoting and protecting human rights.

The Unit eight deals with the rights of the elderly persons. In this unit, discussions are made about global and national initiatives for promoting and protecting Human Rights of Elderly Persons such as United Nations Efforts on Old Age (Ageing), The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007 etc. Accordingly, the role of the NGOs in spreading and protecting human rights are discussed in the unit nine . Here, the role of the Amnesty International in promoting and protecting Human Rights and the role of the Human Rights Watch in promoting and protecting Human Rights are also explained. The tenth unit deals with an awareness regarding the human rights movements in India during pre and

UNIT 1: UNITED NATIONS AND HUMAN RIGHTS

UNIT STRUCTURE

1.1 Learning Objectives

1.2 Introduction

1.3 Human Rights Provisions of the UN Charter

1.4 Universal Declaration of Human Rights: Adoption, Provisions and Significance

1.5 Human Rights Council

1.6 Let Us Sum Up

1.7 Further Reading

1.8 Answers to Check Your Progress

1.9 Possible Questions

1.1 LEARNING OBJECTIVES

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

- enlist the human rights provisions of the UN Charter
- discuss the Universal Declaration of Human Rights, its adoption, provisions and significance
- state the role of the Human Rights Council.

1.2 INTRODUCTION

Human rights are essential requisition for the development of an individual throughout the world. It aims to safeguard people's needs, aspirations and protect each of them from all kinds of discrimination and exploitation. 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 (Agarwal, H.O. 2005, Human Rights, p-03). United Nations Charter, Universal Declaration of Human Rights and Human Rights Council are some landmark international measures to address the issues of human rights. The discussion of this unit revolves round these three international human rights protection measures, their main provisions and significance.

(a) declares that The General Assembly shall initiate studies and make recommendations for the purpose of promoting international cooperation in the political field and encouraging the progressive development of international law and its codification and 13 (1) (b) states the promotion of international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 55 conveys that to facilitate international economic and social cooperation among nations, based on respect for the principle of equal rights and self-determination of all people, the United Nations shall promote the following objectives:

(a) Higher standards of living, full employment, and conditions of economic and social progress and development;

(b) Solutions of international economic, social, health, and related problems; and inter-national cultural and educational cooperation;

(c) Universal respect for, and observance of, human rights and fundamental freedom for all without the distinction with regard to race, sex, language, or religion.

Article 56 states that all members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

Chapter X under Article 62 (1) states that the Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.

It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedom for all (62 (2).

It may prepare draft conventions for submission to the General

1.4 UNIVERSAL DECLARATION OF HUMAN RIGHTS: ADOPTION, PROVISIONS AND SIGNIFICANCE

When the atrocities committed by the Nazis became fully apparent after World War II, the consensus within the world community was that the United Nations Charter did not sufficiently define the rights to which it referred. It was therefore decided to create a declaration that specified the fundamental rights of individuals. The Universal Declaration of Human Rights (UDHR) was drafted by a committee chaired by Eleanor Roosevelt (USA) and included representatives from the Republic of China, Lebanon, Australia, Chile, France, USSR, United Kingdom and Canada.

48 out of 58 Member States voted in favour of the Declaration and the United Nations General Assembly adopted it on 10th December, 1948. It contains 30 articles having concise explanations on universal human rights. From articles 1 to 21, we have the civil and political rights and from articles 22 to 27, we have the Economic and Social Rights. Besides, the article 29 develops that everyone has duties to the community in which alone the final and full development of his personality is possible. Again, article 30 offers freedom from state or personal interference in the above rights.

The Preamble of the Declaration grows accordingly---

The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Main Provisions: The main provisions of UDHR tend to satisfy the aforesaid objectives through the following Articles.

Article 10:

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11:

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12:

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, or to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13:

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country including his own, and to return to his own country.

Article 14:

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15:

(1) Everyone has the right to a nationality.

(3) The will of the people shall be the basis of the authority of government: this will be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22:

Everyone, as a member of society, has the right to social security and is entitled to realization through national effort and international co-operation and in accordance with the organization and resources of each state, of the economic, social and cultural right indispensable for his dignity and the free development of his personality.

Article 23:

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone without any discrimination has the right to equal pay for equal work.

(3) Everyone who works has the right to and favourable remuneration ensuring for himself and his family an existence worthy of human dignity and supplemented if necessary by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24:

Everyone has the right to rest and leisure including reasonable limitation of working hours and periodic holidays with pay.

Article 25:

(1) 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 services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30:

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Significance:

By discussing the 30 Articles of the UDHR, it may be stated that they are the concise and most distinct human rights necessary for the development of personality and human dignity of each individual. The significance and relevance of the UDHR lay on the effectiveness and deficiency of the Declaration in the promotion of human rights and personal freedom for all. The UN Charter aims to protect the universal human rights and freedoms of each individual at the international level. The UN adopted the UDHR to provide a clear picture about the rights and freedom of individuals for the States as well as for the world community. The Declaration is the inclusive reflection of the UN Charter. It aims to bring worldwide peace and security. The Declaration is by nature non-binding for the States. In spite of it, the whole international community universally accepted it. The regular reference to the Declaration and the development of the provisions later shaped into Covenant on Economic, Social and Cultural Rights, Covenant on Civil and Political Rights, and the adoption of independent texts on various aspects of human rights. All these texts conferred the status on the declaration as a part of customary international law. On several Occasions, the various organs of the UN including the Security Council and the General Assembly quoted its provisions in a number of resolutions and documents. For example the World Conference on Human Rights held at Vienna in 1993, the Teheran Conference of Human Rights, 1978 etc.

As a mark of respect to the UDHR, the UN developed its Millennium Development Goals based on certain less addressed issues of it. The

that require its attention throughout the year. The council meets at the UN Office at Geneva.

The Council was created by the United Nations General Assembly on 15th March 2006 by the resolution 60/251. Its first session was held from 19th to 30th June, 2006. It replaced the former United Nations Commission on Human Rights.

It will address issues of violations, promote human rights assistance and education, and help to develop international human rights law, review the human rights records of member States, work to prevent abuses, respond to emergencies, and serve as an international forum for dialogue on human rights issues (www2.ohchr.org>press>hrc>kit).

The Human Rights Council reports directly to the UN General Assembly. It is composed of 47 States representatives, and the members of the General Assembly elect them. The term of each seat is three years and no member may occupy a seat for more than two consecutive terms. The members are selected via the basis of reasonable geographic rotation using the United Nations regional grouping system. The seats are distributed as follows------

1. 13 seats for the African group
2. 13 seats for the Asia-Pacific Group
3. 6 seats for the Eastern European Group
4. 8 seats for the Latin American and Caribbean Group
5. 7 seats for the Western European and Others Group

The Council is led by one President and four vice-presidents that are also elected by the said five regional groups. The electoral period for both seats and presidents and vice-presidents is three years. The council is an independent organ that meets three to four times a year for an overall time span of at least ten weeks. The convening of special meets is possible in urgent cases.

On 18th June 2007, the Council agreed on establishing the procedures, mechanisms and structures that form the basis of its work. Among these mechanisms, the following are most notable:



CHECK YOUR PROGRESS

Q.9: The United Nations Human Rights Council replaced the former United Nations Commission on Human Rights. (True/False).

.....

Q.10: Mention one function of the United Nations Human Rights Council.

.....

Q.11: The Human Rights Council reports directly to the UN ..... (Fill in the Blank)

.....

Q.12: Examine the functions of the UN Human Rights Council. (Within 50 words)

.....

.....

.....



1.6 LET US SUM UP

- Human rights are essential prerequisites for ensuring standard of living in each individual. It protects people's interests and saves them all from all kinds of discrimination and exploitation.
- The United Nations Charter was signed in San Francisco on June 26th, 1945. It supports the principle of human rights as offered by Dumbarton Oaks (1944) proposals.
- The UN Charter contained a brief reference to the purposes of UN for the promotion of human rights. It shoulders the responsibility to the General Assembly, and under its authority, the Economic and Social Council to satisfy the ends.
- The Preamble of the UN Charter develops that it tries to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.



1.7 FURTHER READING

1. Agarwal, H.O. (2005): *Human Rights*, (8th edition) Allahabad, Central Law Publications.
2. Yasin, A. U. & Upadhyay (2004): *Human Rights*, Akansha Publishing House, New Delhi-110059.

https://www.un.org

www2.ohchr.org>press>hrc>kit

http://www.un.org/en/universal-declaration-human-rights



1.8 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: On 26th June, 1945.

Ans. to Q. No. 2: Dumbarton Oaks Conference, 1944.

Ans. to Q. No. 3: True.

Ans. to Q. No. 4: The United Nations Charter contains a number of provisions for the promotion of human rights and fundamental freedoms in the Preamble and primarily in the Articles 1, 13 (1) (b), 55, 56, 62(2), 68 and 76 (c). It contained a brief reference to the promotion of human rights, as one of the activities to be performed by the proposed General Assembly, and under its authority, the Economic and Social Council, Trusteeship Council etc.

Ans. to Q. No. 5: True

Ans. to Q. No. 6: 30 Articles.

Ans. to Q. No. 7: Right to life, liberty and security of person.

Ans. to Q. No. 8: The limitations of the UDHR are, firstly, it is not binding on States as law but rather it is a U.N. recommendation to States. secondly, the declaration offered no means of implementation other than States' goodwill. Thus, the UDHR seems to be suggestions for States and at their own discretion, they are implementing or vice-versa.

Ans. to Q. No. 9: True

UNIT 2: INTERNATIONAL COVENANTS AND PROTOCOLS ON HUMAN RIGHTS- ICESCR, ICCPR AND OPTIONAL PROTOCOL

UNIT STRUCTURE

2.1 Learning Objectives

2.2 Introduction

2.3 Meaning of Human Rights

2.4 Background of the Covenants

2.5 Adoption of International Covenant on Civil and Political Rights (ICCPR)

2.6 Provisions of ICCPR

2.7 Optional Protocols to the ICCPR

2.8 Adoption and Provisions of the International Covenant on Economic, Social and Cultural Rights (ICESCR),

2.9 Optional Protocol to the ICESCR

2.10 Let Us Sum Up

2.11 Further Reading

2.12 Answers to Check Your Progress

2.13 Possible Questions

2.1 LEARNING OBJECTIVES

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

- know about the concept of human rights
- explain the relationship of human rights with ICCPR and ICESCR
- describe the development of Human Rights
- analyze the adoption of both the Covenants
- discuss the provisions of the Covenants, and
- explain about the Optional Protocol to the ICESCR.

But the acceptance of a number of conventions by the Member States in the United Nations has proved that the member nations have taken pledge to achieve the promotion of universal respect for and observance of human rights and fundamental freedoms.

2.4 BACKGROUND OF THE COVENANTS

Human rights are indivisible and interdependent. Therefore, precisely there cannot be different kinds of human rights. All human rights are equal in significance and are inherent in all human beings. However, the subsequent developments made in the field of Human rights under the umbrella of the United Nations make it clear that human rights are of two kinds, viz: (1) Civil and Political Rights, and (2) Economic, Social and Cultural Rights.

The Universal Declaration of Human Rights stated the common standard of achievements for the enjoyment and protection of human rights. The Universal Declaration of Human Rights is an ideal standard held in common by nations around the world, but it bears no force of law. Thus, from 1948 to 1966, the UN Human Rights Commission's main task was to create a body of international human rights law based on the Declaration, and to establish the mechanisms needed to enforce its implementation and use.

The Human Rights Commission produced two major documents: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Both became international law in 1976. Together with the Universal declaration of Human Rights, these two covenants comprise what is known as the "International Bill of Human Rights."

The ICCPR focuses on issues such as the right to life, freedom of speech, religion and voting. The ICESCR focuses on food, education, health and shelter. Both Covenants proclaim these rights for all individuals and forbid discrimination.

Q.4: When was the Second Optional Protocol to Civil and Political Rights came into force?

.....

Q.5: What does the Second Optional Protocol to Civil and Political Rights signify?

.....

2.6 PROVISIONS OF ICCPR

The Covenant on Civil and Political Rights consists of 53 Articles and is divided into six parts. While in Parts I, II, and III, various rights and freedom are enumerated, the other three parts are devoted to the implementation procedures along with the final clauses for effective realization of these rights.

Article 1, which refers to the right of people to self- determination, states that all people have the right to freely determine their political status and freely pursue their economic, social and cultural development and may for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation .

Part II stipulates the obligations of the States to take necessary steps to incorporate the provisions of the covenants in the domestic laws and to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the covenant. The State Parties ensure the equal right of men and women to the enjoyment of all the civil and political rights.

Substantive Rights:

Part III deals with the specific rights of the individuals and obligations of the States Parties.

1. The right to life (Article 6)
2. Freedom from inhuman or degrading treatment (Article 7).
3. Freedom from slavery servitude and forced labour (Article 8)

Parties to invoke various limitations on the ground of national security, public order, public health or morals.

The Covenant under Para 2 Article 4 provided that there are certain rights in respect of which no derogation can be made. For example there cannot be any derogation in the:

1) Right to life (Article 6)
2) Freedom from inhuman or degrading treatment (Article 7)
3) Freedom from slavery, slave trade (Article 8, Para 1) and servitude (Article 8 Para 2)
4) Freedom from imprisonment for inability to fulfill a contractual obligations (Article 11)
5) Non-retroactive application of criminal law (Article 15)
6) Right to recognition as a person before the law (Article 16); and
7) The freedom of thought, conscience and religion (Article 18)

The above rights are non-suspendable rights as they are the 'Core of essentials human rights'.

Part IV of the Covenant laid down the procedure for the implementation. A provision was made for the establishment of the Human rights committee which was the monitoring body under the Covenant.

The committee consists of 'eighteen members' of 'high moral character' and to have 'recognized competence' in the field of human rights.

Thirty eight States Parties to the Covenant met for the first time on September 20, 1976. They elected eighteen members of the committee whose term began from January 1, 1977. The Committee carries out the implementation of the human rights stipulated in the Covenant in four different ways which are as follows:

1. The Reporting procedure;
2. Inter-State Communication system;
3. Conciliation Procedure; and
4. Individual communication system

the Optional Protocol shall be governed by International law under Article 19(3) on the Vienna Convention on the Law of Treaties of 1969.

With regard to the Second Optional protocol, India has not ratified because India has failed all the recommendations that called for the abolition of death penalty. The government also refused to accept specific recommendations on the use of force by law enforcement officials, including those that called for a revision of the Armed Forces Special Powers Act. The second protocol calls for the abolition of death penalty in any civil court or military operation where impunity is provided for causing death. India applied AFSPA in J&K and NE areas where impunity was provided for causing death. Hence, India could sign it only after the removal of AFSPA. India also could not give capital punishment to those who commit serious crimes, and who wages, or are attempting to wage war against the government of India if she signs the Second Optional Protocol.



CHECK YOUR PROGRESS

Q.6: Which part of the Covenant on Civil and Political Rights describes the substantive rights?

.....

Q.7: Which part of the Covenant on Civil and Political Right describes about the Committee on human rights?

.....

Q.8: When was the Covenant on Economic, Social, and Cultural Rights adopted and when did it come into force?

.....

2.8 ADOPTION AND PROVISIONS OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)

International Covenant on Economic, Social and Cultural Rights was adopted on December 16, 1966. The Covenant came into force on January 3, 1976.

The absence of such a procedure limits the chances of victims of abuses getting international redress.

The Committee, since 1990, has devoted attention to the possibility of elaborating such an Optional Protocol and has discussed the issue at length and breadth. At the Sixth session in 1991, the committee supported the drafting of an Optional Protocol in order to enhance the practical implementation of the Covenant.

The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights is an international treaty establishing individual communication system, inter-state communications and inquiry mechanisms.

To achieve the purposes of the Covenant and the implementation of its provisions, the Committee on Economic, Social and Cultural Rights carry out the functions provided for in the present Protocol.

A State Party to the Covenant that becomes a Party to the present Protocol recognizes the competence of the Committee to receive and consider communications. The Committee shall not receive communication from a State Party which is not a party to the present Protocol.

The Protocol was adopted by the UN General Assembly on 10 December, 2008 and opened for signature on 24 September, 2009. The Protocol entered into force on 5th May, 2013.

Relationship between the Two Covenants

At the time of the adoption of the Universal Declaration of Human Rights there was no distinction between the two sets of rights. The Declaration has stated civil and political rights as well as economic, social and cultural rights. The distinction between the two sets of rights came up later during the cold war which resulted in the drafting of two Covenants.

The Preamble and Articles 1, 2, 3 and 5 are virtually identical to both the Covenants. The Preamble of both the Covenants recognize that these rights derive from the inherent dignity of human beings. Article 1 of both the Covenants affirms that all people have a right to self -



2.11 FURTHER READING

1. Agarwal, Dr H.O. (2009): *International Law & Human Rights*. Sixteenth Edition, Central Law Publications: Allahabad.
2. Yasin, Adil-ul-Yasin &Upadhyay Archana.(2006): *Human Rights*. First Edition, Akansha Publishing House: New Delhi.
3. Kapoor, S.K. (2005): *Human Rights under International Law & Indian Law*: Third Edition, Central Law Agency: Allahabad.



2.12 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: Human Rights are inalienable rights of human beings. Human Rights are birth rights which give dignity to an individual.

Ans. to Q. No. 2: The Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the International Rights on Economic, Social and Cultural Rights together constitute the "International Bill of Human Rights".

Ans. to Q. No. 3: The International Covenant on Civil and Political Rights was adopted on December 16, 1966. It came into force on March 23, 1976.

Ans. to Q. No. 4: The Second Optional Protocol to the Civil and Political Rights came into force on July 11, 1991.

Ans. to Q. No. 5: The Second Optional Protocol signifies about the abolition of death penalty. India has not ratified to the Second Optional Protocol to the Civil and Political Rights.

Ans. to Q. No. 6: Part III of the Covenant on Civil and Political Rights describes the Substantive Rights.

Ans. to Q. No. 7: Part IV of the Covenant on Civil and Political Rights describes the Committee on human rights.

UNIT 3: THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)

UNIT STRUCTURE

3.1 Learning Objectives

3.2 Introduction

3.3 Historical development of International Refugee Law

3.4 Human Rights and the United Nations High Commissioner for Refugees

3.5 Organizational Structure of the UNHCR

3.6 Rights of Refugees

3.7 Role of the UNHCR in India

3.8 Role in India

3.9 Let Us Sum Up

3.10 Further Reading

3.11 Answers to Check Your Progress

3.12 Possible Questions

3.1 LEARNING OBJECTIVES

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

- describe the historical development of International Refugee Law
- discuss the development of UNHCR
- know about the Rights of Refugees
- explain the role of UNHCR

3.2 INTRODUCTION

Refugees are referred to those persons who leave their States in which they have permanent residents to escape persecution or military action.

The Convention Relating to the Status of Refugees of 1951 defines refugees under Article 1 as:

"Refugee" under International Refugee law covers persons who is compelled to flee his state of origin or residence due to political troubles, persecution, famine or natural disaster.

3.3 HISTORICAL DEVELOPMENT OF INTERNATIONAL REFUGEE LAW

With the bitter experiences of the barbaric battles (World War I and World War II), the human rights and humanitarian law influenced the development of refugee protection. There was an international commitment to protect the refugees and concerns were taken for their security and safety.

During post World War II, the concern under international law was the national interest of the States and their politico-economic systems.

The international action for refugees did not start until the 1920s. Assistance to refugees was provided throughout 1920 by Dr. Fridtjof Nansen of Norway. His outstanding contribution helped the creation of World public opinion in favour of the creation of an international machinery for the protection and assistance to refugees. League of Nations on June 27, 1921, established the Office of the High Commissioner for the Russian Refugees. Dr Nansen was appointed the first High Commissioner for Russian Refugees. Dr Nansen, was awarded Nobel Peace Prize for his leadership, vigour and spirit in the service of refugees.

After the death of Nansen in 1930, the Assembly of the League of Nations abolished the High Commissioner's post and the task of the protection of refugees was entrusted to the Nansen International Office for Refugees commonly known as 'Nansen Office'. The supreme authority in the Office was vested in a governing body headed by a President nominated by the Assembly. The problem of refugees arose in a much horrified way after Hitler's accession to power in 1933 and his annexation of Austria (1938) and of Czechoslovakia (1939), and after the World War II which dislocated the civilian population.

The main function of the UNHCR is to protect the human rights of the refugees. Some of the functions are:

a) To facilitate voluntary returning of such refugees.

b) By assimilation within new national communities.

c) To help the refugees overcome the plight of displacement due to conflict.

d) Engaging in such activities with a view to repatriation and settlement which General Assembly may determine.

These are the nothing but protection of human rights.

3.5 ORGANISATIONAL STRUCTURE OF UNHCR

UNHCR came into existence on January 1, 1951. UNHCR is a subsidiary organ of the General Assembly and it acts under the authority of the General Assembly. The High Commissioner is required to report annually to the General Assembly, through ECOSOC and its report is considered a separate item. Its headquarter is located in Geneva in Switzerland.

The High Commissioner's programme is administered by a thirty-member Executive Committee, which generally meets twice a year at Geneva. It consists of representatives of members of the United Nations and of specialized agencies, who are elected by the Economic and Social Council on geographical basis from among States which has interest and devoted itself to the solution of refugee problem.

3.6 RIGHTS OF REFUGEES

The most important international instrument drawn up relating to problems of refugee is the Convention in relation to the Status of Refugees 1951. The Convention was adopted after considering that the Charter of the United Nations and the Universal Declaration of Human Rights have affirmed the principle that human beings shall enjoy fundamental rights and freedom without discrimination. The Convention came into force on April 22, 1954.

The Convention under Article 33 states that no Contacting state shall expel or return (refoul) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion.

The principle of non-refoulement ascertains that "no refugee should be returned to any country where he or she is likely to face persecution or torture. The term "non-refoulement" has its origin in the French word refouler, means to drive back or repel.

Article 33(1) of the 1951 Convention has officially recognized the principle of non-refoulement. The provisions of the Convention ascertains that no contracting state shall expel or return (refouler) a refugee in any manner whatsoever to the territory where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

Chapter IV of the Convention from Articles 20 to 33 provides for the 'welfare' of the refugees. Refugees are required to be treated by the State Parties as their own nationals. The Contracting State shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education, public relief and assistance, labour legislation and social security. They have a right to choose their place of residence and to move freely within its territory. The Contracting States will not impose upon refugees' duties, charges or taxes of any description which are levied on the nationals of the respective States.

The Convention under Article 16 Para 1 lays down that a refugee shall have a free access to the courts of law on the territory of all contracting States.

- **The 1967 Protocol relating to the Status of the Refugees**

  The '1951 Convention' has laid down the provisions of protection which are to be followed on humanitarian grounds. Refugees enjoy the right to seek shelter and security on the basis of the conditions specified in the Convention. The '1967 Protocol' helps to eliminate

Q.6: From where does the word "non-refoulment" originate ?

.....

.....

Q.7: When did the Protocol to the Status of Refugees come into force?

.....

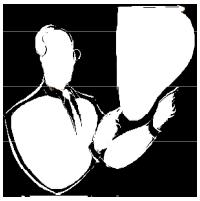
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3.7 ROLE OF THE UNHCR

UNHCR governs the displaced persons of all nationals and provides general protection to all those who lack their nationality because of displacement. It deals with those refugees who are displaced because of any reason irrespective of any geographical limitation or any act of aggression.

The Contracting parties to the Refugee Convention of 1951 are required to cooperate with the office of the UNHCR in the exercise of its functions. They have an obligation to provide the UNHCR the information and statistical data concerning the conditions of the refugees and laws and regulations in force relating to the refugees. There should be co-ordination between the Convention and Protocol and office of the UNHCR in curbing the problems of refugee.

The UNHCR initially focused its efforts on aiding the refugees and displaced persons in Europe after World War II, but in the later decades, efforts were shifted to resettling the refugees who were the victims of war, political turmoil or natural disasters in Africa and parts of Asia and Latin America. It has facilitated the return of 2,50,00 Algerian refugees in 1962, repatriated 10 million Bangladeshis and 150000 Sudanese in 1972 and organized one of history's largest airlift population exchanges- a two way movement of large numbers of people between Bangladesh and Pakistan in 1973.



LET US KNOW

UNHCR was awarded Nobel Peace Prize twice for its excellent work in 1954 and in 1981.

established by law. However, the right to life and liberty does not include the right to reside and settle in this country, as mentioned in Article 19(1) (c) which is applicable to the citizens of this country.

The decision of the Supreme Court in its judgement given in National Human Rights Commission vs State of Arunachal Pradesh, is a landmark case regarding the protection of some of the rights to the refugees. In the above case, a large number of Chakmas from the erstwhile East Pakistan (now Bangladesh) were displaced from the Kaptai Hydel Power Project in 1964. They took shelter in Assam and Tripura. Most of them were settled in these States and became Indian citizens in due course of time. Since a large number of refugees had taken shelter in Assam, the State Government expressed its inability to rehabilitate them. However, about 4012 Chakmas were settled in Arunachal Pradesh. They were allotted some land in consultation with local tribals. Later, the relations between citizens of Arunachal Pradesh and Chakmas had deteriorated and the citizens of Arunachal Pradesh made a complaint to forcibly expel them from the State of Arunachal Pradesh.

The Committee for Citizenship Rights of the Chakmas (CCRC) filed a representation with the National Human Rights (NHRC) complaining of the persecution of the Chakmas. The NHRC decided to bring the matter before the Supreme Court.

The Supreme Court observed that the settlement of the Chakmas in large number in Arunachal Pradesh shall disturb its ethnic balance and destroy its culture and identity. The court stated that there existed a clear and present danger to the lives and personal liberty to the Chakmas in the State of Arunachal Pradesh.

The Court stated that India is a country governed by the rule of law. Our Constitution confers certain rights on every human being and certain other rights on citizens. Every person is entitled to equality before law and equal protection of the laws (Article 14) and also, no person can be deprived of his life of personal liberty except according to the procedure established by law (Article 21). Thus, a State is bound to protect the life and liberty of

The Office of the Chief of Mission was opened in 1981 under the broad umbrella of the United Nations Development Programme (UNDP), to respond to the influx of Afghan asylum seekers. India does not have a national law for refugees, and therefore, UNHCR deals in India with individual asylum seekers (the protection granted to someone who has left their home country as a political refugee). Once a refugee is recognized, the three solutions the UNHCR promotes as appropriate in individual circumstances which are voluntary repatriation, local integration and resettlement to a third country. All these activities are done with close collaboration with the Government of India. Since 1995, India has been an active member of the Executive Committee of UNHCR.

Thus, we may say that there should be active participation of the States while cooperating with refugee problems. These sections of people are the weaker/vulnerable groups in humanitarian law. So each and every country should come forward to protect them from fear of persecution. The 20th century is the most outstanding era in the achievement of the refugee problem in the humanitarian field. It is a matter of concern to the international community and there must be cardinal cooperation and burden sharing in the context of it.



3.9 LET US SUM UP

- The word "refugee" in the ordinary sense means a person who has been forced to leave his country or home for reasons beyond his control or personal choice. As per the accepted definition under 1951 Convention, a refugee is a person who is forced to leave his or her home owing to well founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion and does not have the protection of his country.
- The General Assembly on December 14, 1950 adopted the Statue of the Office of the United Nations High Commissioner for Refugees (UNHCR). The UNHCR came into existence on January 1, 1951.

3.11 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: Under the 1951 Convention, a person who is forced to leave the his or her home owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion and does not have the protection of his country is termed as "Refugee"

Ans. to Q. No. 2: The Resolution No. 428(vi) of UNHCR was adopted by the General Assembly on December 14, 1950.

Ans. to Q. No. 3: The UNHCR came into existence on January 1, 1951.

Ans. to Q. No. 4: The Convention on Status of Refugees was adopted on 1951 and it came into force on April 22, 1954.

Ans. to Q. No. 5: The principle non-refoulement ascertains that "no refugee should be returned to any country where he or she is likely to face persecution or torture".

Ans. to Q. No. 6: The term "non-refoulement" has its origin in the French word "refouler", means to drive back or repel.

Ans. to Q. No. 7: The Protocol to the Status of Refugee came into force on 4 October, 1967.

3.12 POSSIBLE QUESTIONS

Q. 1: Write the meaning of the term Refugee.

Q. 2: In which year did the UNHCR come into existence?

Q. 3: Mention the full form of UNHCR.

Q. 4: Write a short note on the rights of the refugees.

Q. 5: Explain the role of the UNHCR in protecting the rights of the

UNIT 4: UNITED NATIONS AND RIGHTS OF WOMEN

UNIT STRUCTURE

4.1 Learning Objectives

4.2 Introduction

4.3 Role of the UN in Promoting and Protecting the Rights of Women

4.4 Various Declarations and Conventions Adopted by the UN

4.5 World Conferences on Women

4.6 Let Us Sum Up

4.7 Further Reading

4.8 Answers to Check Your Progress

4.9 Possible Questions

4.1 LEARNING OBJECTIVES

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

- discuss the United Nations as an organisation and its functions
- explain the role of the UN in protecting the rights of women
- know about the declarations and conventions adopted by UN for protecting women's rights
- discuss the world conferences regarding women's rights.

4.2 INTRODUCTION

The United Nations (UN) is an organization which is basically concerned with the task of maintaining international peace and security, developing friendly relations among nations and achieving international co-operation. It is a centre for harmonizing the actions of nations. It was established after World War II, with the aim of preventing future wars. Its headquarters, which are subject to extraterritoriality, are in Manhattan, New York City, and it has other main offices in Geneva, Nairobi, Vienna and The Hague. The organization is financed by assessed and voluntary

Economic and Social Council established its Commission on the Status of Women, as the principal global policy-making body dedicated exclusively to gender equality and advancement of women.

The landmark Declaration, adopted by the General Assembly on 10 December 1948, reaffirms that "All human beings are born free and equal in dignity and rights" and that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, … birth or other status."

As the international feminist movement began to gain momentum during the 1970s, the General Assembly declared 1975 as the International Women's Year and organized the first World Conference on Women, held in Mexico City. At the urging of the Conference, it subsequently declared the years 1976-1985 as the UN Decade for Women. In 1985, the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, was held in Nairobi. It was convened at a time when the movement for gender equality had finally gained true global recognition, and 15,000 representatives of non-governmental organizations (NGOs) participated in a parallel NGO Forum. The event was described by many as "the birth of global feminism". Realizing that the goals of the Mexico City Conference had not been adequately met, the 157 participating governments adopted the Nairobi Forward-looking Strategies to the Year 2000. The document broke new ground by declaring all issues to be women's issues.



CHECK YOUR PROGRESS

Q.1: What is the UNO?

.....

.....

Q.2: Mention the principal organs of the UNO.

.....

.....

and other emergency situations that cause them to suffer. Furthermore, it enshrines women and children's rights, such as access to food, shelter, and medical care in emergency situations. The Declaration states that women and children suffer victimization during armed conflict due to "suppression, aggression, colonialism, racism, alien domination and foreign subjugation". The Declaration also requires countries to take measures to end "persecution, torture, punitive measures, degrading treatment and violence" especially when they are targeted against women and children, as well as recognizing "imprisonment, torture, shooting, mass arrests, collective punishment, destruction of dwellings, and forcible evictions" as criminal acts. Certain inalienable rights are also enshrined in the Declaration, such as access to food, shelter, and medical care, which are to be provided to women and children caught in emergency situations.

- ***Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979):*** This convention is thought of as an international women's bill of rights. It is a defining document in gender equality work. **CEDAW** was adopted in 1979 by the UN General Assembly. It consists of a preamble and 30 articles and it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. The Convention defines discrimination against women as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

  By accepting the Convention, the States commit themselves to undertake a series of measures to end discrimination against women in all forms, including:

  - to incorporate the principle of equality of men and women in their legal system.
  - to abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women;

each woman and girl can exercise her freedoms and choices, and realize all her rights, such as to live free from violence, to go to school, to participate in decisions and to earn equal pay for equal work. It connected and reinforced the activism of women's movements on a global scale. Since then, the governments, civil society and the public have translated the Platform for Action's promises into concrete changes in individual countries. These have ushered in enormous improvements in women's lives. More women and girls compared to any previous time serve in political offices, are protected by laws against gender-based violence, and live under constitutions under the philosophy of gender equality.

- ***CEDAW's Optional Protocol:*** The Optional Protocol is a subsidiary agreement to the CEDAW. It does not establish any new rights, but rather allows the rights guaranteed in the CEDAW to be enforced. The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW) is an international treaty which establishes complaint and inquiry mechanisms for the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Parties to the Protocol allow the Committee on the Elimination of Discrimination against Women to hear complaints from individuals or inquire into "grave or systematic violations" of the Convention. The Protocol has led to a number of decisions against the member states on issues such as domestic violence, parental leave and forced sterilization, as well as an investigation into the systematic killing of women.

- ***Maputo Protocol-- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003):*** The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, known as the Maputo Protocol, guarantees comprehensive rights to women including the right to take part in the political process, to social and political equality, control of women's reproductive health etc.

observed to remind the international community that discrimination against women continued to be a persistent problem in many places of the world.

The Conference, along with the United Nations Decade for Women (1976-1985) proclaimed by the General Assembly five months later, at the urging of the Conference, launched a new era in global efforts to promote the advancement of women by opening a worldwide dialogue on gender equality.

- ***World Conference of the United Nations Decade for Women: Equality, Development and Peace: Copenhagen (14 to 30 July 1980)***

  The **World Conference on Women, 1980 or the Second World Conference on Women** took place between 14 and 30 July 1980 in Copenhagen, Denmark as the mid-decade assessment of the progress and failure in implementing the goals established by the World Plan of Action at the 1975 inaugural conference on women. The most significant event to come out of the conference was that the formal signing of the Convention on the Elimination of All Forms of Discrimination against Women took place during the opening ceremony of the conference. Marred by conflict and politicization of international and national events which had little to do with women's issues, the conference was viewed by some participants as a failure. They were able to secure passage of a modified World Programme of Action to expand on previous targets to improve women's status, and established a follow-up conference for the end of the decade.

- ***World Conference to review and appraise the achievements of the United Nations Decade for Women: Equality, Development and Peace: Nairobi (15 to 26 July 1985)***

  The **World Conference on Women, 1985** or the **Third World Conference on Women** took place between 15 and 26 July 1985 in Nairobi, Kenya, as the end-decade assessment of progress and failure in implementing the goals established by the World Plan of

- Women and poverty
- Education and training of women
- Women and health
- Violence against women
- Women and armed conflict
- Women and the economy
- Women in power and decision-making
- Institutional mechanisms for the advancement of women
- Human rights of women
- Women and the media
- Women and the environment
- The girl-child



CHECK YOUR PROGRESS

Q.5: In which year was the Beijing Declaration and Platform for action held?

.....

.....

Q.6: Write four critical areas of concern for the women globally.

.....

.....



4.6 LET US SUM UP

- Numerous international and regional instruments have drawn attention to gender-related dimensions of human rights issues, the most important being the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted in 1979.
- In 1993, 45 years after the Universal Declaration of Human Rights was adopted, and eight years after CEDAW entered into force, the UN World Conference on Human Rights in Vienna confirmed that women's rights were human rights. That this statement was even



4.7 FURTHER READING

1. Bartos Adam, Hitchens Christopher (1994). *International Territory: the United Nations 1945-1995*, London: Verso.
2. Childers Erskine (ed.) (1994). *Challenges to the United Nations: building a safer world*, London: Catholic Institute of International Relations.
3. Haq Mahbub ul (1995). *Reflections on Human Development*, New York: Oxford University Press.
4. David Held (1995). *Democracy and the Global Order*, Cambridge: Polity Press.



4.8 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: The United Nations (UN) is an organization which is basically concerned with the task of maintaining international peace and security, developing friendly relations among nations, achieving international co-operation. It is a centre for harmonizing the actions of nations.

Ans. to Q. No. 2: The UN has six principal organs namely- the General Assembly; the Security Council; the Economic and Social Council; the Trusteeship Council; the International Court of Justice and the UN Secretariat.

Ans. to Q. No. 3: Full form of CEDAW is Convention on the Elimination of All Forms of Discrimination Against Women.

Ans. to Q. No. 4: The CEDAW was adopted in the year 1979 by the UN General Assembly.

Ans. to Q. No. 5: In the year 1995.

Ans. to Q. No. 6: Four critical areas of concern for women globally are- Women and poverty, Education and training of women, Women and health and Violence against women.

UNIT 5: UNITED NATIONS AND RIGHTS OF CHILDREN

UNIT STRUCTURE

5.1 Learning Objectives

5.2 Introduction

5.3 The role of the United Nations in Promoting and Protecting Rights of the Children

5.3.1 Declaration of the Rights of the Child, 1959

5.3.2 Convention on the Rights of the Child, 1989

5.4 Let Us Sum Up

5.5 Further Reading

5.6 Answers to Check Your Progress

5.7 Possible Questions

5.1 LEARNING OBJECTIVES

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

- discuss the role the United Nations in protecting and promoting the rights of the children
- explain the different conventions and declarations of the UN in the field of protection of child rights.

5.2 INTRODUCTION

The concern for the rights of children has become more visible in the contemporary times. Universally accepted human rights norms assume that all human rights must be applied to all sections of the society. But the rights of some vulnerable sections of the people are constantly being violated. This is particularly true in the case of rights of the children. In practice, the rights of the children are grossly violated in many cases. To protect and promote the rights of the children, measures must be adopted at international, national and local levels. The United Nations has adopted

Covenant have emphasized the right to education, including free universal primary education, generally available secondary education and equally accessible higher education. Apart from these, the UN has adopted other Declarations and Conventions related to the rights of children which will be discussed in the following sections.

5.3.1 Declaration of the Rights of the Child, 1959

The Declaration of the Rights of the Child which was adopted by the General Assembly on 20 November, 1959 contains certain principles reflecting the progressive international efforts in the field of protection of child rights. The Declaration contains 10 Principles related to the rights of children. The Declaration through its various Principles mentions that each and every child should have a name of its own, the right to nationality, the right to development of personality, the right to education, the right to social security, the right to protection against exploitation, the right to legal protection etc. The Declaration also provided that the child shall have the right to protect against any kind of racial, religious or any kind discrimination and cruelty. The Declaration also provided that the physically, mentally and socially disabled children shall have the right to special care and treatment. In other words, it can be said that the Declaration contains some important provisions for the protection of rights of children.



CHECK YOUR PROGRESS

Q.1: In which year was the Declaration of the Rights of the Child adopted?

.....

Q.2: In which year, was the Geneva Declaration of the Rights of the Child adopted?

.....

- **Protection Rights** include assurance of protection not only from violation of rights but also from all kinds of exploitation and cruelty. Protection is vital for especially vulnerable group among the children like abandoned children, street children and displaced children.
- **Participation Rights** include the right to express opinions and right to play an active role in the community and society through freedom of association.

Some of the important rights incorporated in the Convention are-

1. Each and every child shall have the right to enjoy all the rights mentioned in the Convention without any kind of discrimination.
2. While taking any action, whether administrative, legislative, and legal or any other action, the best interests of the child shall be a primary consideration in this regard.
3. Every child has the right to life and right to development.
4. Every child has the right to be registered immediately after birth and shall have the right to a name, the right to acquire a nationality, and the right to be cared for by his or her parents.
5. A child whose parents reside in different state shall have the right to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents.
6. Every child has the right to freedom of expression. This right shall include freedom to seek, receive and impart information and ideas of all kind, freedom of thought, conscience and religion.
7. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to the unlawful attacks on his or her honour and reputation.
8. A child temporarily or permanently deprived of his or her family environment, shall be entitled to special protection and assistance provided by the state.

armed conflicts which are relevant to the child. Regarding the rights of the disabled children, the Convention provided that the state parties recognize that a mentally or physically disabled child should enjoy a full decent life, in conditions which ensure dignity, promote self-reliance, and facilitate the child's active participation in the community.

The state parties to the Convention have to respect and ensure implementation of the provisions of the Convention. The Committee on the Rights of the Child is entrusted with the responsibility of monitoring the implementation of the provisions of the Convention.

Apart from this, the Vienna Declaration on Human Rights, 1993, also accelerates the process of international movement for the promotion of the rights of the child. The Declaration insists on certain issues which the state needs to follow:

- Combat exploitation and abuse of children by addressing their root causes.
- Devise effective measures against female infanticide, harmful child labour, sale of children, child prostitution, and child pornography as well as other forms of sexual abuse.
- Organize means of improving the protection of children in armed conflicts and initiate programs for the rehabilitation of the children in war zones as well as those in especially difficult circumstances.



CHECK YOUR PROGRESS

Q.4: The Convention on the Rights of Child contains how many Articles?

.....

Q.5: Mention any two rights incorporated in the Convention on the Rights of Child.

.....

- **World Summit for Children, 1990**

The World Summit for Children to promote the well-being of children was held at the United Nations Headquarters, New York on 29 and 30 September, 1990. In this Summit, the World Declaration on the Survival, Protection and Development of Children and a Plan of Action comprising a detailed set of child related human development goals for the year 2000 was signed. The main objective of this World Declaration and Action plan was to achieve reduction in the infant and maternal mortality, child malnutrition and illiteracy as well as targeted increase in access to basic services for health and family planning, education, water and sanitation. Out of the 159 governments represented at the Summit, 73 signed the Joint Declaration and Plan of Action on behalf of the world's children. The goals established at the 1990 World Summit for Children encourages the participant countries to offer a high level of commitment for the cause of children and thus help in creating new partnership between governments, NGO's donors, the media, civil society and international organizations in pursuit of a common purpose.

In May 2000, the General Assembly held a special session in New York to discuss the issues related to children. This special session reviewed the progress made after the World Summit of 1990 and adopted a resolution on "A World Fit For Children" which specifically pointed out the goals and plan of action to provide help to the children across the globe on issues like education, health, sanitation and standard of living.

Despite all such arrangements in terms of protection of child rights, violations of those rights are going on in different parts of the world in diverse socio-political context. The human rights activists realize the gravity of the problems of child labour and violation of child rights and urges for human rights education

protection etc.

- The Convention on the Rights of Child was adopted by the UN General Assembly on 20th November, 1989 to implement the Principles of the Declaration of the Rights of the Child. It came into force on 2 September, 1990. The Convention contains 1 Preamble and 54 Articles.
- Some of the important rights incorporated in the Convention are- right to life, right to acquire a nationality, right to family environment, right to freedom of expression, right to be protected from all forms of physical or mental violence, injury or neglect, right to social security, right against exploitation of child labour, right of a mentally or physically disabled child to enjoy a full and decent life, right to education, right to rest and leisure and right to be protected against all forms of exploitation.
- The Convention has also provided some measures to be adopted by the state parties to give effect to the provisions of the convention. The convention provided that the states Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in this convention.
- To give more effect to the provisions of the Convention on the Rights of the Child, the UN General Assembly adopted two optional protocols to the Convention on 25th May 2000. These two Optional Protocols are - Optional Protocol on the Involvement of Children in Armed Conflict and Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Optional Protocol on the Involvement of Children in Armed Conflict came in force on 12 February, 2002. The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography came into force on 18 January 2002. The aims of these two protocols are to protect children from armed conflict and sexual exploitation.
- The World Summit for Children to promote the well-being of children

Ans. to Q. No. 5:

(i) Every child has the right to life and right to development.

(ii) Every child has the right to be registered immediately after birth and shall have the right to a name, the right to acquire a nationality, and the right to be cared for by his or her parents.

(iii) A child whose parents reside in a different State shall have the right to maintain on a regular basis, in exceptional circumstances, personal relations and direct contacts with both parents.

(iv) Every child has the right to freedom of expression. This right shall include freedom to seek, receive and impart information and ideas of all kind, freedom of thought, conscience and religion.

Ans. to Q. No. 6: 1993.

Ans. to Q. No. 7: Optional Protocol on the Involvement of Children in Armed Conflict and Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

Ans. to Q. No. 8: The main objective of this World Declaration and Action plan was to achieve reduction in infant and maternal mortality, child malnutrition and illiteracy as well as targeted increase in gaining access to basic services for health and family planning, education, water and sanitation.



5.7 POSSIBLE QUESTIONS

A) Very Short Questions

Q. 1: In which year was the resolution on "A World Fit For Children" adopted?

Q. 2: Write two main objectives of the World Summit for Children, 1990.

Q. 3: Write a note on the Declaration of the Rights of the Child.

Q. 4: Write a short note on the World Summit for children, 1990.

Q. 5: Write about the Optional Protocols to the Convention on the Rights

UNIT 6: UNITED NATIONS AND INDIGENOUS PEOPLE

UNIT STRUCTURE

6.1 Learning Objectives

6.2 Introduction

6.3 The Role of the United Nations in Promoting and Protecting Rights of the Indigenous People

6.4 The United Nations Declaration on the Rights of Indigenous People

6.5 Permanent Forum of Indigenous Issues

6.6 Let Us Sum Up

6.7 Further Reading

6.8 Answers to Check Your Progress

6.9 Possible Questions

6.1 LEARNING OBJECTIVES

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

- explain the role the United Nations in protecting and promoting rights of the indigenous people
- discuss the Declaration on rights of the indigenous people
- describe the role of Permanent Forum of Indigenous Issues under the banner of the United Nations.

6.2 INTRODUCTION

There are more than 300 million indigenous people across the globe and almost half of them are concentrated in India and China. These are the categories of people who had a long historical reality and have been experiencing lots of contestation with the outsiders as a result of invasion. The indigenous people are also called aboriginal people because these were the people who lived on their lands before the settlers came from different places. As a result of trans-migration of different sorts of civilizational forces to different localities, these existing indigenous people

Apart from these three specific bodies to deal with different indigenous issues, the Committee on the Elimination of Racial Discrimination has also considered the situation of indigenous people. The United Nations Working Group on Indigenous Population which was created in 1982 is considered to be one of the important centre of indigenous rights activities within the United Nations. This Working Group also functions as a forum attended annually by more than 500 indigenous representatives who are able to exchange views in a free and democratic manner with governments, non-governmental organization and United Nations agencies. In order to rectify serious human rights violations cases of the indigenous people, the United Nations' General Assembly has proclaimed the ten years starting from 10th December 1994 as the Decade of the World's Indigenous Peoples. The goal of the Decade of the World's Indigenous Peoples is to strengthen international cooperation for the solution of the problems faced by indigenous people. The UN General Assembly recommended that 9th August of every year is to be observed as the International Day of Indigenous People.



CHECK YOUR PROGRESS

Q.1: State the definition of indigenous people provided by the International Labour Organization's Convention No. 107 of 1951.

.....

.....

Q.2: Name any two bodies which deal with the different issues of the indigenous people under the parameter of United Nations Organization.

.....

.....

Q.3: What was the goal of the Decade of the World's Indigenous People?

.....

.....

8. The Preamble of the Declaration welcomes the fact that the indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination,

9. The Preamble convinced that control of the indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development,

10. The Preamble recognizes that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

11. The Preamble also emphasizes the contribution of the demilitarization of the lands and territories of the indigenous people to realize peace, economic and social progress and development, establishing friendly relations among the nations and people of the world,

12. The Preamble also recognizes the right of the indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children,

13. The Preamble considers that the rights affirmed in treaties, agreements and other constructive arrangements between the States and indigenous people are, in some situations, matters of international concern, interest, responsibility and character and these treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership,

14. The Preamble acknowledges the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action and affirms the fundamental importance of the right to self-determination of all people,

- The Indigenous People have the right to full and effective enjoyment of all human rights and fundamental freedom recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Human Rights Law. (Article 1)
- The Indigenous individuals and people are free and equal among all other individuals and people with dignity and rights, and have the right to be free from any kind of adverse discrimination, particularly based on their indigenous origin or identity. (Article2)
- The Indigenous people have the right of self-determination. By virtue of that right they can freely determine their political status and freely pursue their economic, social and cultural development. (Article 3)
- The Indigenous people have the right to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal systems. (Article 4)
- Every indigenous individual has the right to a nationality. (Article5)
- The Indigenous people have the collective right to live in freedom, peace and security as distinct people. (Article 6)
- The Indigenous individuals have the rights to life, physical and mental integrity, liberty and also have the collective right to live in freedom, peace and security as distinct people and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group. (Article 7)
- The Indigenous people have the collective and individual right to maintain and develop their distinct identities and characteristics. (Article 8)
- The Indigenous people and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. (Article 9)

- The Indigenous people have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard. (Article 25)
- The States shall establish and implement, in consultation with the indigenous people concerned, a fair, independent, impartial, open and transparent process, giving due recognition to the indigenous people's laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of the people pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. The Indigenous people shall have the right to participate in this process. (Article 27)
- The Indigenous people shall have the right of conservation, restoration and protection of the total environment and the productive capacity of their lands, territories and resources. (Article 28)
- The Indigenous people shall have the collective right to determine the responsibilities of individuals to their communities. (Article34)
- The States in consultation and cooperation with the indigenous people, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration. (Article 38)

The Declaration on Rights of Indigenous People adopted by the UN General Assembly under Article 39 states that the indigenous people shall have the right to have access to financial and technical assistance from the States and through international cooperation, for the enjoyment of the rights mentioned in this Declaration. The Declaration under Article 43 further states that the rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous people of the world. The Declaration maintains equality between men and women regarding the rights enshrined in the Declaration.

Vienna. The Vienna Declaration and Programme of Action recommended that such a forum should be established within the framework of the United Nations International Decade of the World's Indigenous Peoples (1995-2004).

The Permanent Forum is an advisory body to the Economic and Social Council with a mandate to discuss indigenous issues related to economic and social development, culture, the environment, education, health and human rights of indigenous people. The main function of the Permanent Forum are-

(i) The Permanent Forum on Indigenous Issues provides expert advice and recommendations on indigenous issues to the Council, as well as to programmes, funds and agencies of the United Nations, through the Council;

(ii) It raises awareness and promote the integration and coordination of activities related to the indigenous issues within the UN system;

(iii) It also prepares and disseminates information on the indigenous issues.

The Office of the United Nations High Commissioner for Human Rights is designated as the 'lead agency' to implement the resolution of the Permanent Forum on Indigenous Issues. The Permanent Forum is to hold an annual session of ten working days. The meetings would be held at the UN Office in Geneva, at UN Headquarters in New York, or wherever the Permanent Forum may decide.

The Permanent Forum discusses the indigenous issues relating to economic and social development, culture, environment, education, health and human rights. This Permanent Forum basically tries to work for the all-round development of indigenous people. It establishes a universal framework of minimum standards for the survival, dignity and well-being of indigenous people, elaborates on the existing human rights instruments and clarifies how they apply to the specific situations of indigenous people. The Permanent Forum makes certain recommendations on the tenth anniversary of the United Nations Declaration on the Rights of Indigenous People made certain recommendations. Some of these recommendations are -



CHECK YOUR PROGRESS

Q.4: Mention any two rights incorporated in the Declaration on Rights of the Indigenous People.

.....

.....

Q.5: In which year was the Permanent Forum on Indigenous Issues established?

.....

Q.6: Mention any two main functions of the Permanent Forum on Indigenous Issues.

.....

.....



6.6 LET US SUM UP

- The Indigenous people are the categories of people who had a long historical reality and has been experiencing lots of contestation with the outsiders as a result of invasion. The Indigenous people are also called the aboriginal people because these were the people who lived on their lands before the settlers came from different places.
- With the increasing trans-migration of different sorts of civilizational forces to different localities, these existing indigenous people slowly and gradually lost their grip upon their fertile land, occupation etc. and become vulnerable in the hands of the dominant outsiders. They have to face severe challenges in their day-to-day life.
- The United Nations has adopted a number of measures to promote and protect the rights and freedom of the indigenous people.
- There are three different bodies to deal with different issues of the indigenous people under the parameter of United Nations Organization, such as - the Working Group on Indigenous Populations, the Special Rapporteur on the Situation of Human Rights

6.8 ANSWERS TO CHECK YOUR PROGRESS

Ans. to Q. No. 1: The International Labour Organization's Convention No. 107 of 1951 has defined the Indigenous People as "those which having a historical continuity with pre-invasion and pre-colonial societies- considers themselves distinct from other sectors of societies now prevailing in those territories".

Ans. to Q. No. 2: The Working Group on Indigenous Populations, the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People.

Ans. to Q. No. 3: The goal of the Decade of the World's Indigenous Peoples is to strengthen international cooperation for the solution of problems faced by the indigenous peoples.

Ans. to Q. No. 4: (i) The Indigenous People have the right to the full and effective enjoyment of all human rights and fundamental freedom recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and International Human Rights Law. (Article 1)

(ii) The Indigenous individuals and people are free and equal to all other individuals and people in dignity and rights, and have the right to be free from any kind of adverse discrimination, particularly based on their indigenous origin or identity. (Article 2)

Ans. to Q. No. 5: In the year 2000.

Ans. to Q. No. 6: (i) The Permanent Forum on Indigenous Issues provides expert advice and recommendations on indigenous issues to the Council, as well as to programmes, funds and agencies of the United Nations, through the Council.

(ii) It raises awareness and promote the integration and coordination of activities related to indigenous issues within the UN system.

UNIT 7: INTERNATIONAL LABOUR ORGANIZATION AND HUMAN RIGHTS

UNIT STRUCTURE

7.1 Learning Objectives

7.2 Introduction

7.3 International Labour Organization (ILO)

- 7.3.1 Formation of the ILO
- 7.3.2 Functions of the ILO
- 7.3.3 Governance and policy making of the ILO
- 7.3.4 Standards guaranteed by the ILO

7.4 Freedom of Association and the Effective Recognition of the Right to Collective Bargaining

7.5 Elimination of all Forms of Forced and Compulsory Labour

7.6 Effective Abolition of Child Labour

7.7 Elimination of Discrimination in Respect of Employment and Occupation by the ILO

7.8 The Role of ILO in Promoting and Protecting Human Rights

- 7.8.1 Social Protection

7.9 Let Us Sum Up

7.10 Further Reading

7.11 Answers to Check Your Progress

7.12 Possible Questions

7.1 LEARNING OBJECTIVES

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

- know about the formation of the ILO
- analyze the role of the ILO in protecting the human rights
- explain the functions of the ILO

was associated with the League of Nations. On October 9, 1946 the amending instrument was signed at Montreal which is cited as the ILO instrument of Amendment, 1946. The ILO became the first specialized agency associated with the United Nations when the agreement was approved by the General Assembly on December 14, 1946.

The ILO consists of: a) International Labour Conference known as General Conference, b) Governing Body and c) an International Labour Office (Secretariat).

The International Labour Conference is the supreme body which meets annually at the ILO headquarters in Geneva. Each national delegation is composed of two Government delegates, one employer's delegate and one worker's delegate. The Governing Body (Executive Council) normally meets three or four times in a year at Geneva. It elects the Director-General of the International Labour Office (Secretariat) in Geneva which is composed of the permanent Secretariat and professional staff. The Conference, the Governing Body and the Office make up the ILO.

The main function of the Conference is to lay down the minimum standards of working and living conditions of the workers. The Conference holds election of the members of the Governing body. It also approves annual budget of the Organization. The Conference examines reports from the member States regarding implementation of Conventions and recommendations adopted by the Conference.

The Governing Body which is known as the executive organ of the ILO follows tripartite (triple) principle. Half of its members are government representatives and the remaining half are equally divided between the employers and workers. It elects its own chairman and vice-chairman for a period of one year. It also elects the Director-General of the International Labour Office (Secretariat).

7.3.4 Standards Guaranteed by the ILO

Since its early days, the ILO has sought to define and guarantee labour rights and improve conditions for working people by building a system of international labour standards expressed in the form off Convention, Recommendations and Codes of Practice.

The ILO has adopted more than 180 ILO Conventions and 190 Recommendations covering all aspects of the world at work.

With the adoption of the Declaration on Fundamental Principles and Rights at work in 1998, the ILO member States decided to uphold a set of core labour standards regardless of whether they had ratified the relevant conventions. These core labour standards are basic human rights.

7.4 FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING

All workers and all employers have the right to freely form and join groups for the support and advancement of their occupational interests. This basic human rights go together with the freedom of expression and is the basis of democratic representation and governance.

Freedom of association means that workers and employers can set up, join and run their own organizations without interference from the State. People need to be able to exercise their right to influence work-related matters that directly concern them. In other words, their voice needs to be heard and taken into account.

Voluntary collective bargaining is a process through which employers or their organizations and trade unions, or in their absence representatives, freely designated by the workers, discuss and negotiate their relations and conditions of work. Such bargaining in good faith aims at reaching mutually acceptable collective agreements.

Certain types of work categorized as "the worst forms of child labour" are totally unacceptable for all children under the age of 18 years, and their abolition is a matter for urgent and immediate action. These forms include such inhumane practices as slavery, trafficking, debt bondage and other forms of forced labour; prostitution and pornography and the use of children for illicit activities such as the trafficking of drugs. Dangerous work that can harm the health, safety or morals of children are subject to assessment by governments in consultation with workers' and employers' organizations.

A key characteristic of any effective strategy to abolish child labour is to impart education. Education can combat poverty, child labour, and give the children social protection.

ILO has made Conventions for the protection of human rights of children which are "Minimum Age Convention (No. 138), Worst Forms of Child Labour Convention (No. 182).

7.7 ELIMINATION OF DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION BY THE ILO

Discrimination at work can occur in many different settings, from high-rise office buildings to rural villages, and in a variety of forms. It can affect men or women on the basis of their sex, or because of their race or skin colour or social origin. Discrimination at work denies opportunities to individuals and deprives society of what those people can and could contribute.

Equality at work means that all individuals should be accorded equal opportunities to develop fully the knowledge, skills and competencies that are relevant to the economic activities they wish to pursue.

In case of both employees and self-employed or workers, non-discrimination at work depends on equal access to quality education prior to entering the labour market.

Effective mechanisms are needed to address the obstacles of discrimination when they occur. ILO has taken steps to provide indiscrimination by creating Equal Remuneration Convention (No.100) to provide equality to both men and women in the workplace. Discrimination

1930, the ILO sought ways to combat widespread unemployment. After the World War II, the ILO also concentrated on human rights development and the relationship between the working environment and conditions.



LET US KNOW

The ILO was awarded the Nobel Peace Prize for Peace in 1969 in recognition of its activities.



CHECK YOUR PROGRESS

Q.1: When was the ILO established?

.....

Q.2: Where is the Headquarter of the ILO situated?

.....

Q.3: What constitutes the ILO?

.....

Q.4: Name the Programme which the ILO launched in 1990.

.....

Q.5: What is the most effective step taken by the ILO on June 17, 1999?

.....

Q.6: In which year was the ILO awarded Nobel Peace Prize?

.....

7.8.1 Social Protection

Most men and women do not have adequate levels of social protection. They face dangers in the workplace and poor pension and health insurance coverage. Some are not allowed sufficient rest times and many women lack maternity benefits. The ILO is committed to helping countries extend social protection to all groups in society and to improving working conditions and safety at work.

The ILO sees today's global challenge of workers as a top priority and make policies for them. Every year, more than 2 million people



7.9 LET US SUM UP

- The ILO was established after the World War I, on April 19, 1919 as an autonomous institution by the Treaty of Versailles and it was associated with the League of Nations.
- The ILO became the first specialized agency associated with the United Nations.
- The Conference, the Governing Body and the International Labour Office make up the ILO.
- After the World War II, the ILO concentrated on Human Rights like Child Labour and the working conditions and environment of people.
- The ILO has been working for the development of Labour standards and conditions throughout the World.
- The ILO was awarded Nobel Peace Prize for Peace in 1969 in recognition of its activities.



7.10 FURTHER READING

1. Agarwal, Dr H.O. (2009). *International Law &Human Rights*, Sixteenth Edition, Central Law Publications: Allahabad.
2. Agarwal, Dr H.O. (2018). *International Organisations*, Second Editions, Central Law Publications: Allahabad.
3. Prof. Murthy, B.S. (1993). *International Relations and Organisation*, For Law Students. A project of the National Law School of India University In Association With Bar Council Of India Trust, Eastern Book Company: Lucknow.
4. Websites

   www.google.com

UNIT 8: RIGHTS OF ELDERLY PERSONS

UNIT STRUCTURE

8.1 Learning Objectives

8.2 Introduction

8.3 Elderly Population in the World

8.4 Elderly Population in India

8.5 Problems of the Elderly People

8.6 Elder Abuse

8.7 United Nations Efforts on Old Age (Ageing)

- 8.7.1 United Nation's Principles for Older Persons, 1991
- 8.7.2 The Madrid International Plan of Action on Ageing
- 8.7.3 Human Rights of the Elderly

8.8 Efforts at the National Level- Indian perspective

8.9 Protection of Rights of the Elderly

- 8.9.1. Hindu Adoption and Maintenance Act
- 8.9.2. Muslim Law
- 8.9.3. Criminal Procedure Code
- 8.9.4 The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007
- 8.9.5 PRANAM Bill, State Government

8.10 Let Us Sum Up

8.11 Further Reading

8.12 Answers to Check your Progress

8.13 Possible Questions

8.1 LEARNING OBJECTIVES

After reading this unit, you will be able to-

- identify the scenario of elderly population in the world
- explain the scenario of elderly population in India
- analyse the problems associated with elderly population
- describe the rights of elderly persons