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Exam Code: HRI

# Human Rights: Institutional Arrangements

## SEMESTER III

## POLITICAL SCIENCE

### BLOCK : 1

KRISHNA KANTA HANDIQUI STATE OPEN UNIVERSITY

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# POLITICAL SCIENCE
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## COURSE INTRODUCTION

The third course of the Third Semester of MA Programme in Political Science of KKHSOU is titled as "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 discusses the human rights education and campaign. It also elaborately explains the UNESCO and Montreal Protocol. The eight unit deals with the formation of International Labour Organization (ILO) and the role of the ILO in promoting and protecting human rights.

The Unit nine 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 tenth. 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 eleventh unit deals with an awareness regarding the human rights movements in India during pre and post-colonial period. In unit twelve, the constitutional and legal framework of human rights in India are explained. Here, discussions are made on fundamental rights, the role of the Parliament in protecting Human Rights, the role of the Indian Judiciary in protecting Human Rights and National Human Rights Commission.

The thirteenth unit highlights the rights of women in India. Various constitutional provisions including issues and challenges of protecting women's rights are discussed in this unit. Child labour has posed a threat to the rights of the children. The fourteenth unit focusses on the issue of the rights of children in India. The fifteenth unit deals with the aspects of conflict and human rights violation in India. It also explains the violation of human rights in conflict situation and the role of State and Non-State Agencies.

The course "Human Rights: Institutional Arrangements" is divided into two blocks- Block 1 and Block 2. Block 1 contains eight units (Unit 1 - 8) and Block 2 contains seven units (Unit 9 - 15).

## INTRODUCTION TO BLOCK- 1

The third course of the Third Semester of MA Programme in Political Science of KKHSOU is titled as "Human Rights: Institutional Arrangements." The first block of this course contains eight units- (Units 1-8).

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 made familiar with the various aspects of UNHCR, development of International Refugee Law and rights of the refugees. The fourth and fifth unit is based on the United Nations and 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 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 with role of the UN in promoting and protecting the rights of the indigenous people, the declaration on rights of indigenous people and permanent forum of indigenous issues. The seventh unit discusses the human rights education and campaign. It also elaborately explains the role of UNESCO and Montreal Protocol. Unit eight deals with the formation of International Labour Organization (ILO) and the role of the ILO in promoting and protecting human rights.

While going through the units of the block, you will find that the units are further divided into certain sections and sub-sections, wherever necessary, for your better understanding. 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 "POSSIBLE QUESTIONS" is intended to give you a hint of the type of questions you are likely to get in the examination.

# 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.

## 1.3 HUMAN RIGHTS PROVISIONS OF THE UN CHARTER

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. 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. Consequently, the UN Charter 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. It tends to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom.

The Charter contains a number of provisions for the promotion of human rights and fundamental freedom in the Preamble and primarily in the Articles (1, 13 (1) (b), 55, 56, 62(2), 68 and 76 (c). These are discussed below.

The Preamble of the Charter laid down that we the People of United Nations determined to reaffirm faith in the 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---. It is a concept of securing equal human rights for the whole mankind.

Besides, Para 3 of the Article 1of the Charter declares the purposes of the United Nations. It expresses that to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedom for all without distinction as to race, sex, language, or religion is one of the main purpose of human rights. It admits the commencement of the international and universal recognition of human rights.

In addition, the United Nations General Assembly and the Economic and Social Council have the responsibility for the realization and promotion of human rights and fundamental freedom. Considering this, Article 13 (1)

(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) promoting 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 Assembly, with respect to matters falling within its competence (62 (3).

It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

Article 68 articulates that the Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 76 states that the basic objectives of the trusteeship system, in accordance with the purposes of the United Nations laid down in Article 1 of the present Charter, shall be to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world 76 (c).

Besides, the above provisions, the United Nations Charter, in its different articles, repeatedly talks about the protection of dignity and fundamental human rights for all irrespective of all discriminations.



## CHECK YOUR PROGRESS

**Q. 1:** When was the United Nations Charter signed?

.....

**Q. 2:** Name one background international measure before the UN Charter regarding the protection of human rights for all.

.....

**Q. 3:** The UN Charter 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. (Write True/ False)

.....

**Q. 4:** Write briefly about the provisions of the United Nations Charter regarding the protection of human rights. (Within 50 words)

.....

.....

.....

.....

## 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 1:**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

**Article 2:**

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, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs. Whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

**Article 3:**

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

**Article 4:**

No one shall be held in slavery and the slave trade shall be prohibited in all their forms.

**Article 5:**

No one shall be subjected to torture or undergo cruel, inhuman or degrading treatment or punishment.

**Article 6:**

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

**Article 7:**

All are equal before the law and are entitled without any discrimination to equal protection of the law.

**Article 8:**

Everyone has the right to an effective remedy by the competent national tribunal for acts violating the fundamental rights granted him by the constitution or by law.

**Article 9:**

No one shall be subjected to arbitrary arrest, detention or exile.

**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.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

**Article 16:**

(1) Men and women of full age, without any limitation due to race, nationality or religion have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and state.

**Article 17:**

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

**Article 18:**

Everyone has the right to freedom of thought, conscience and religion, this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

**Article 19:**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Article 20:**

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

**Article 21:**

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(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.

(2) Motherhood and childhood are entitled to special care and assistance. All children whether born in act of wedlock, shall enjoy the same social protection.

**Article 26:**

(1) Everyone has the right to education. Education shall be free at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

**Article 27:**

(1) Everyone has the right to freely participate in cultural life of the community, to enjoy the arts and to shake in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literacry or artistic production of which he is the author.

**Article 28:**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

**Article 29:**

(1) Everyone has duties to the communities in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms everyone shall be subject only to such limitations as are determined by law solely for the

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

extensive recognition and respect given to the declaration universally, and the celebration of December 10 every year by the World Community led scholars to term it as the Magna Carta of the World for upholding the rights and fundamental liberties of the individuals.

The UDHR set for the international community "a common standard of achievement for all peoples and the nations" and called upon all member States and all peoples to promote and secure the effective recognition and observance of the rights and freedoms set forth therein. Despite having the world wide recognition, UDHR appears as a challenge because it never offers any means for implementing the ends of securing human rights other than the effectiveness of the declaration rests only on the good will of the respective States.



**CHECK YOUR PROGRESS**

**Q.5:** The UDHR can be considered the Magna Carta of the World in upholding human rights for all individuals. (True/False)

.....

**Q.5:** The Universal Declaration of Human Rights has a total of ------articles.

.....

**Q.7:** Mention one civil right of people under the UDHR.

.....

**Q.8:** Identify two limitations of the UDHR.

.....

.....

## 1.5 HUMAN RIGHTS COUNCIL

The Human Rights Council is an inter-governmental body within the United Nations system made up of 47 States responsible for the promotion and protection of all human rights around the globe and for addressing situations of human rights violations and making recommendations on them. It has the ability to discuss all thematic human rights issues and situations

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:

- The Universal Periodic Review Working group
- The Advisory Committee
- The Special Procedures
- The Complaint procedure
- The Expert Mechanism on the Rights of Indigenous Peoples
- The Social Forum
- The Forum on Minority Issues
- The Forum on Business and Human Rights.

These subsidiary bodies report directly to the Human Rights Council. The Council also assumes a number of Mechanisms established by the Former Commission of Human Rights, such as the system of the Special Procedures.

The Human Rights Council has already advanced the rule of law. A series of resolutions have been adopted by the Council that directly relate to both human rights and the rule of law, including the administration of justice; the integrity of the judicial system; and human rights, democracy and the rule of law. (https://www.un.org).

By getting inputs from the stakeholders, the Council sometimes performs as a forum for dialogue among States. It may lead to resolutions or uphold certain principles, or may create mechanisms to investigate or monitor certain questions/situations.

The Human Rights Council has created or renewed the mandates of various "special procedures". The special procedures are experts appointed to monitor human rights around priority themes or in specific countries with serious human rights problems. The special procedures may be individual experts ("special rapporteurs" or "independent experts") or working groups.

The Council also prepares the Universal Periodic Review, and review the overall human rights record of each UN Member State.

In addition, the Council receives complaints against and makes recommendations to mitigate them (https://ijrcenter.org/un-human-rights-council/).

Hence, the Human Rights Council is a platform to investigate the tensions of human rights violation cases and offers answers to them through discussions, dialogues and reports.



## 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.

- The 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).
- After World War II, it was 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).
- 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 of the UDHR laid down certain limitations to the rights mentioned in the Declaration and offer supreme position to Community over individuals.
- The UDHR set for the international community "a common standard of achievement for all peoples and the nations" and called upon all member States and all peoples to promote and secure the effective recognition and observance of the rights and freedoms set forth therein.
- Though the Declaration with its non-binding nature is seem to be a weakness in the field of its implementation by the States, yet, it has received universal recognition without any exception and it is accepted by the whole international community.
- The Human Rights Council is an inter-governmental body within the United Nations system made up of 47 States responsible for the promotion and protection of all human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office at Geneva.
- The Council was created by the United Nations General Assembly on 15th March 2006 by resolution 60/251. It replaced the former United Nations Commission on Human Rights.



## 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

**Ans. to Q. No. 10:** UN Human Rights Council is responsible for the promotion and protection of all human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year.

**Ans. to Q. No. 11:** United Nations General Assembly.

**Ans. to Q. No. 12:**

The United Nations Human Rights Council will address issues of human rights 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.



## 1.9 POSSIBLE QUESTIONS

**A) Very Short Questions**

**Q. 1:** Where was the UN Charter signed?

**Q. 2:** Who chaired the drafting committee for the preparation of Universal Declaration of Human Rights?

**Q. 3:** Point out two objectives of United Nations incorporated in the Preamble of the UN Charter.

**Q. 4:** Human Rights are Universal. (Mention true or false)

**(B) Short Questions** (Answer each question in about 150 words)

**Q. 1:** The Universal Declaration of Human Rights offered certain definite and clear rights. Argue in support of your answer.

**Q. 2:** Examine the civil and political rights under the UDHR.

**Q. 3:** Examine the significance of the UDHR.

**Q. 4:** Discuss the measures taken by the Human Rights Council to promote human rights and international peace.

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

**Q. 1:** Discuss the provisions of the United Nations Charter to promote human rights.

**Q. 2:** Examine the activities of the UN Human Rights Council.

*** ***** ***

# 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.

## 2.2 INTRODUCTION

After World War II, the transformation of the position of the individuals has been the most remarkable development in contemporary international law. In addition to the states, individuals are regarded as subjects and beneficiaries having rights and duties flowing directly from International Law. While a few rules are directly concerned with regulating the position and activities of individuals, and few others indirectly affect them. Human Rights are those inalienable rights of individuals which are conferred by the States in the modern International Law.

## 2.3 MEANING OF HUMAN RIGHTS

Human beings are rational beings. They, by virtue of their being human, possess certain basic and inalienable rights which are commonly known as human rights. When a child is born, human rights become operative. Human rights being the birth right, are therefore, inherent in all the individuals irrespective of their religion, race, caste, creed, sex and nationality. These rights give liberty, equality, dignity and freedom to an individual. Because of their immense significance, human rights are also known as fundamental rights, basic rights, inherent rights, natural rights and birth rights.

There is a universal acceptance of human rights in principle, in domestic and international arena. Human rights embrace civil rights, civil liberties and social, economic and cultural rights. It is difficult to give a precise definition of the term human rights. However, it can be said that human rights are inalienable rights of human which give the individuals dignity of being human.

Human rights being essential for the all- round development of the personality of the individuals in the society. The need for the protection of the rights has arisen because of the inevitable increase in the control over men's action by the governments which by no means are regarded as desirable.

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.

## 2.5 ADOPTION OF INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)

Civil rights or liberties are referred to those rights which are related to the protection of the right to life and personal liberty. They are essential for a person so that he/she may live a dignified life. Such rights include right to life, liberty and security of persons, right to privacy, 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 those rights which allow a person to participate in the Government of a state. Thus, the right to vote, the right to be elected at genuine periodic elections, the right to take part in the conduct of public affairs directly or through chosen representatives are examples of political rights.

These rights are the first generation human rights. These rights are derived from the seventeenth and eighteenth century reformist theories which are associated with the English, American and French revolutions.

The General Assembly on December 16, 1966 adopted Civil and Political Rights. It also adopted an Optional Protocol to the International Covenant on Civil and Political Rights. The General Assembly on December 15, 1989 adopted the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty.



**CHECK YOUR PROGRESS**

**Q.1:** What do you mean by the concept Human Rights?

.....

**Q.2:** What comprise the "International Bill of Human Rights"?

.....

**Q.3:** When was the International Covenant on Civil and Political Rights adopted?

.....

**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)

4. Right to liberty and security (Article 9)
5. Right of detenu to be treated with humanity (Article 10)
6. Freedom from imprisonment for inability to fulfil a contractual obligation (Article 11)
7. Freedom of movement and to choose his residence ( Article 12)
8. Freedom of aliens from arbitrary expulsion (Article 13)
9. Right to a fair trial (Article 14)
10. Non-retroactive application of criminal law (Article 15)
11. Right to recognition as a person before the law (Article 16)
12. Right to privacy, family, home or correspondence (Article 17)
13. Freedom of thought conscience and religion (Article 18)
14. Freedom of opinion and expression (Article19)
15. Prohibition of propaganda of war (Article20)
16. Right to peaceful assembly (Article 21)
17. Freedom of association (Article 22)
18. Right to marry and found a family (Article23)
19. Rights of the child (Article 24)
20. Right to take part in the conduct of public affairs, to vote and to be elected (Article 25)
21. Equality before the law (Article 26)
22. Rights of minorities (Article 27)

The above rights set forth in the Covenant are not absolute and are subject to certain limitation. But rights should not be subjected to any restrictions except those which are provided by law to protect national security, public order, public health, or morals or the rights and freedoms of others.

The Covenant made provisions under Article 4 relating to public emergency which threatens the life of the nation. Thus, the declaration of emergency permits a State to suspend certain human rights. Thus, the right of derogation is an additional limitation to the right given to States

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

## 2.7 OPTIONAL PROTOCOL TO ICCPR

'Individuals' have also been given a right to make petitions before the Human Rights Committee against the State violating any of the rights provided in the Covenant on Civil and Political Rights. This is known as Individual's Communication System. However, the right does not find place in the Covenant. It is provided in the Optional Protocol to the Covenant on Civil and Political Rights.

The Optional Protocol to the Covenant on Civil and Political Rights was adopted separately by the General Assembly on December 16, 1966 along with the two Covenants.

Parties agree to recognize the competence of the UN Human Rights Committee to consider complaints from 'individuals' who claim that their rights under the Covenant have been violated. Complaints must have exhausted all domestic remedies, and the Committee must bring complaints to the attention of the relevant party, which must respond within six months. Following the consideration, the committee must forward its conclusions to the party and the complainant.

The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty is an agreement to the International Covenant on Civil and Political Rights. It was created on 15 December 1989 and it entered into force on 11 July 1991.

The Optional Protocol commits its members to the abolition of the death penalty within their State, though Article 2.1 allows parties to make a reservation allowing execution "in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime".

India has ratified the International Covenant on Civil and Political Rights on March 27, 1979 but has not ratified the Optional Protocol. Regarding the Optional Protocols, thirty - eight States, including India abstained when the text was approved for the first Optional Protocol. A number of States Parties have ratified the Protocol with reservations which the States find not compatible with their domestic laws. The matter of reservation under

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 International Covenant on Economic, Social and Cultural Rights consisted of 31 Articles which are divided into five parts. Part I deals with the rights of people of self- determination as provided in Article I of the Covenant on Civil and Political Rights. Part II of the Covenant laid down the undertakings of the States Parties to the Covenant.

Other Rights of the individuals are enumerated in Part III of the Covenant which included the following rights.

1) Right to work (Article 6)
2) Right to just and favourable conditions of work (Article 7)
3) Right to form and join trade unions (Article 8)
4) Right to social security (Article 9)
5) Right relating to motherhood and childhood, marriage and the family (Article 10)
6) Right to adequate food, clothing, housing and standard of living and freedom from hunger (Article 11)
7) Right to physical and mental health (Article 12)
8) Right to education including a plan for implementing compulsory primary education (Article 13)

## 2.9 OPTIONAL PROTOCOL TO ICESCR

The Economic and Social Council by a resolution 1985/17 established a Committee on Economic, Social and Cultural Rights in 1985. The members are elected by the Economic and Social Council through secret ballot from a list of persons nominated by States Parties to the Covenant. The members are human rights experts serving in their personal capacity. The Committee monitors the implementation of the Covenant by the States Parties. It considers the reports submitted by the States Parties to the Economic and Social Council.

The Covenant does not provide to individuals or groups who feel that their rights under the Covenant have been violated and to submit formal complaints to the Committee on Economic, Social and Cultural Rights.

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 -

determination and by virtue of that right they are free to determine their political status and to pursue their economic, social and cultural development. While Article 2 in both the Covenants reaffirms the principal of non-discrimination. Article 3 stresses that States should ensure the equal rights of men and women. Article 5 of both the Covenants provided safeguard against the destruction or undue limitations of any human rights and fundamental freedom.

The relationship between the Two Covenants was recognized by the International Conference on Human Rights which was held in Tehran in 1968. The full realization of civil and political rights without, the enjoyment of economic, social and cultural rights is impossible.



## 2.10 LET US SUM UP

- Human rights are inalienable rights of individuals which give them dignity of being human.
- The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights together constitute the "International Bill of Human Rights".
- Both the Covenants were adopted on December 16, 1966. Accordingly, the Covenant on Economic, Social and Cultural Rights came into force on January 3, 1976 and the Covenant on Civil and Political Rights came into force on March 23, 1976.
- The Optional Protocol came into force on March 23, 1976.
- The Second Optional Protocol came into force on July 11, 1991.
- India has ratified both the Covenants but has not ratified the Optional Protocols.
- The First Optional Protocol is on "individual communication system". The Second Protocol is on "abolition on Death Penalty".
- The Optional Protocol to the Economic and Social Rights was adopted on 10 December 2008 and came into force on 5 May 2013.



## 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.

**Ans. to Q. No. 8:** The International Covenant on Economic, Social and Cultural Rights was adopted on 16 December 1966 and it came into force on January 6, 1976.



## 2.13 POSSIBLE QUESTIONS

**A) Very Short Questions**

**Q. 1:** When was the Optional Protocol to the Covenant on Economic, Social and Cultural Rights adopted and when did it come into force?

**Q. 2:** In which year did the second Optional Protocol come into force?

**(B) Short Questions** (Answer each question in about 150 words)

**Q. 1:** What do the Optional Protocol to the Economic, Social and Cultural Rights signify?

**Q. 2:** Write a note on Universal Declaration on Human Rights.

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

**Q. 1:** Describe the Second Optional Protocol of the Civil and Political Rights.

**Q. 2:** Elaborate the rights enumerated in the Civil and Political Rights.

**Q. 3:** Discuss the rights enumerated in the Economic, Social and Cultural 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

3.8 UNHCR's 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:

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

The most outstanding achievements of the 20th century in the humanitarian field has been the establishment of the principle that the refugee problem is a matter of concern to the international community and there must be cardinal cooperation and burden sharing in the context of it. The International Community is under stress due to security threats towards peacekeeping. To gauge the insecurity among the refugee, the refugee law suppress as any such activity that goes against dignity and self-respect of the displaced persons. In order to strengthen International peace and security, the refugee law intends to relax the International tensions and build mutual cooperation among all states irrespective of the social and economic systems.

The "refugee" problem has been tackled by the League of Nations sensitively on humanitarian grounds. The Post World War I had made a deep impact on the human civilization. The horrified impact of the world war called for a centralized mechanism to maintain peace and security. The political, social, and economic factors have been the guiding forces to systematize refugee law.

Two major attempts by the United Nations to define a "refugee" were made in 1950 while drafting the statue of the office of the UN High Commissioner for Refugees, and in 1951, when the UN Conference of Plenipotentiaries adopted the Convention in relation to the Status of Refugees.

The "1951 Convention" has been the landmark in the area of refugee protection. Its definition has been the outcome of post World War I scenario.

"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.

After the beginning of the World War II, the first international agency concerned with the problems of refugees and displaced persons was the United Nations Relief and Rehabilitation Administration (UNRRA) which was established on November 9, 1943.

A Preparatory Commission for IRO, PCIRO was established, on July 1, 1947. It took over the functions and activities previously exercised by UNRRA on behalf of the refugees and displaced persons. It performed the functions until August 20, 1948. IRO succeeded the Preparatory Commission on August 20, 1948. By the time it ceased its operations in February 1952, IRO had resettled more than a million displaced persons and refugees in new homes throughout the World.

With the gradual development of refugee law, the General Assembly on December 14, 1950 adopted the Statue of the Office of the United Nations High Commissioner for Refugees (UNHCR). UNHCR came into existence on January 1, 1951.

## 3.4 HUMAN RIGHTS AND THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)

The transformation of IRO into United Nations High Commissioner for refugees (UNHCR) has been to ensure protection to persons displaced by World War II. The UNHCR was adopted by the General Assembly on December 14, 1950 as annex to Resolution No.428 (VI).

Refugees are victims of gross human rights violations. They are distinct group of individuals without the protection of a national State. The linkage between human rights and refugees is clear in the sense that while gross violations of human rights can create refugee flows. Restoration and respect for human rights make it possible for refugees to return home safely and for their problems to be resolved. Refugee problem is an international issue because two or more States are involved. They flee from one State to another State and therefore their problem cannot be resolved without international cooperation.

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 Rights of the Refugees are defined in the Convention. The Refugees are to be provided with basic human rights in order to maintain the goodness of displaced persons on humanitarian grounds and restore their dignity. The 1951 Convention aims to secure refugee rights by incorporating minimum standards of treatment by the governments.

**1) Basic Rights**

a) Right to religion

b) Right against discrimination

c) Right to marriage

d) Right to acquire movable and immovable property

e) Right to an access to courts

**2) Social and Economic Rights**

a) Right to wage earning employment

b) Right to self-employment

c) Right to housing

d) Right to public education

e) Right to public relief and assistance

f) Right to social security

**3) Obligations**

The Convention not only seeks to ensure rights to the refugees but also assign obligations on them. Article 2 deals with general obligation of the refugees.

- Every refugee has a duty to fulfill the obligations arising out of any law to maintain public order.
- To confirm to the laws of the nation which provide shelter to the refugees and maintain public order.

**4) Rights and protection granted under 1951 Convention**

The states that are party to the Convention, recognized refugee is effectively entitled to asylum in the sense of grant of residence and protection against repatriation (the return of someone to their own country).

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

the geographic and temporal limitations contained in the 1951 Convention definition.

Realising the necessity of protecting the new refugees whose fear of persecution is not related to events before 1951, a Protocol on status of refugees was adopted and opened for signature in 1967. The Protocol is a key treaty in international refugee law. It came into force on 4 October, 1967.

- **Exclusion of Refugee Status by the 1967 Protocol**

  To ascertain and accord refugee status the persons must have 'a well founded fear of persecution'. Persons who has fled by reasons of economic and political factors could be only categorized as economic migrants and are excluded from the refugee status.



## CHECK YOUR PROGRESS

**Q.1:** Who are "Refugees"?

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**Q.2:** When was the resolution for United Nations High Commissioner for refugees (UNHCR) adopted?

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**Q.3:** When did the UNHCR come into existence?

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.....

**Q.4:** When was the Convention to the Status of Refugees adopted and when it came into force?

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**Q.5:** What do you mean by "non-refoulment"?

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.....

**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.

The UNHCR mandate was to protect the refugees, but in recent years, it has been involved in programmes for Internally Displaced Persons (IDP). At various times, the UNHCR has helped IDP in Afghanistan, Angola, Azerbaijan, Bosnia and Herzegovina, Croatia, El Salvador, Ethiopia, Georgia and Iraq.

The UNHCR is not, of course, concerned with all the refugees throughout the World. For example, the refugees considered to be nationals by countries which have granted them asylum are not UNHCR responsibility. Nor is the UNHCR concerned with the refugees for whom another body of the United Nations has assumed full responsibility.

## 3.8 ROLE OF UNHCR IN INDIA

To know about the UNHCR's role in India, first of all, we shall have to know about the refugee problem in India. India is neither a party to the Refugee Convention of 1951 nor to its Protocol of 1967.

India in the past has not enacted any domestic legislation in relation to the refugees despite the fact that it has invariably provided refuge to the people fleeing from countries like Tibet, Bangladesh, Sri Lanka, and Afghanistan. The National Human Rights Commission is of the opinion that the drafting of National Legislation is 'essential'. Legislation is also essential to safeguard the security of the country. The Indian Constitution provides that some of the fundamental rights guaranteed under Part III of the Constitution shall be available to 'all persons', and consequently, they are available to refugees as well. For example, the right to equal protection of law guaranteed under Article 14, the right to protection in respect of conviction for offences provided under Article 20, the right to life and liberty guaranteed under the Article 21 and the right to protection against arbitrary arrest and detention provided under Article 22 are available to refugees also.

The Supreme Court of India in the judgement of Louis De Raedt vs Union of India, held that the Article 21 of the Constitution protects life and personal liberty to all persons, and therefore, aliens in Indian territory shall not be deprived of those rights except according to procedure

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

every human being, he/she may be a citizen or otherwise. So, the Chakmas cannot be threatened to leave the State.

The court also laid down certain guidelines with regard to the Chakma refugees living in Arunachal Pradesh. Specific directions were issued to the State Government that the State shall ensure that the life and personal liberty of each and every Chakma residing in the State shall be protected and they cannot be forcibly evict from the land. Their eviction should be repelled.

Although the rights guaranteed under Articles 14, 20, 21, and 22 of the Constitution are available to the refugees in India, a number of other rights provided to the citizens under the Constitution are not available to them.

There is need for a domestic legislation for the refugees or India should ratify the Convention on the Status of Refugees 1951 and its Protocol of 1967 if we look from human rights point of view. The humanitarian law also gives a call regarding the ratification of the Convention and the Protocol.

As long as the enactment does not take place, the judiciary is required to protect their rights and interests. The National Human Rights Commission (NHRC) established by the Protection of Human Rights Act of 1993 can also play an active role in protecting human rights of the refugees by suo motu ( on its own motion) investigating on the basis of a petition of violation of human rights of refugees.

The Commission intervened relating to the protection of the Chakma refugees who have sought refuge in the North-Eastern States of India. The Commission has also effectively intervened in cases of illegal detention of Sri Lankan refugees in the State of Tamil Nadu.

The Commission expressed its firm opinion that there is a need for a comprehensive national legislation to deal with refugee situations and this law should be enacted keeping in view of the decisions of the Supreme Court as well as relevant international instruments, notably the Refugee Convention of 1951 and the Protocol of 1967.

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.

- The most important international instrument drawn up relating to the problems of the refugees is the Convention relating to the Status of the Refugees of 1951 which 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 freedoms without discrimination. The Convention came into force on April 22, 1954.
- The Protocol relating to the Status of Refugees is a key treaty in international refugee law. It entered into force on 4 October 1967.
- India in the past has provided refuge to the people fleeing from countries like Tibet, Bangladesh, Sri Lanka and Afghanistan. But India is neither a party to the Convention of 1951 nor to its Protocol of 1967. India has not ratified the Convention and its Protocol.
- But the Supreme court of India has given a landmark judgment in National Human Rights Commission v State of Arunachal Pradesh relating to Chakma Refugees of Bangladesh where the Court protect the Rights of the Chakmas in which their human rights had been violated.



## 3.10 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.
4. Verma, Dr Sujata Sirkeck (2019): *International Humanitarian Law* .First Edition, University Book House Pvt. Ltd: Jaipur.

## 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

**A) Very Short 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.

**(B) Short Questions** (Answer each question in about 150 words)

**Q. 1:** Write a short note on the rights of the refugees.

**Q. 2:** Explain the role of the UNHCR in protecting the rights of the refugees.

**Q. 3:** Write in brief about the development of International Refugee Law.

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

**Q. 1:** Discuss the Rights of refugees according to the 1951 Convention to the status of Refugees.

**Q. 2:** Discuss the organizational structure of the UNHCR and its role.

**Q. 3:** Discuss the Refugee problem in India and how India has delt with the problems.

**Q. 4:** Discuss the role of the UNHCR in India.

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# 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

contributions from its member states. Its objectives include maintaining international peace and security, protecting human rights, delivering humanitarian aid, promoting sustainable development, and upholding international law. The UN is the largest, most familiar, most internationally represented and most powerful intergovernmental organization in the world. The UN has six principal organs: the General Assembly; the Security Council; the Economic and Social Council; the Trusteeship Council; the International Court of Justice; and the UN Secretariat. The UN System agencies include the World Bank Group, the World Health Organization, the World Food Programme, UNESCO, and UNICEF. The UN's most prominent officer is the Secretary-General.

## 4.3 ROLE OF THE UN IN PROMOTING AND PROTECTING THE RIGHTS OF WOMEN

Women and girls represent half of the world's population and, therefore, also half of its potential. Gender equality is essential to achieve peaceful societies, with full human potential and sustainable development. But, unfortunately, there is still a long way to go to achieve full equality of rights and opportunities between men and women. Therefore, it is of paramount importance to end the multiple forms of gender violence and secure equal access to quality education and health, economic resources and participation in political life for both women and girls and men and boys. It is also essential to achieve equal opportunities in gaining access to employment and to positions of leadership and decision-making at all levels.

The UN support for the rights of women began with the Organization's founding Charter. One of the purposes of the UN declared in Article 1 of its Charter is ***"To achieve international co-operation … in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."*** It may be stated that Within the UN's first year, the

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?

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

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## 4.4 VARIOUS DECLARATIONS AND CONVENTIONS ADOPTED BY THE UN

A number of conventions and declarations are adopted by the United Nations in order to attain gender equality. Here is a list of the key conventions and declarations that guide gender equality work.

- ***Convention on the Political Rights of Women (1954):*** This convention's purpose is to codify a basic international standard for women's political rights. The Convention on the Political Rights of Women was approved by the United Nations General Assembly on 20 December 1952, and adopted on 31 March 1953. The preamble of the Convention reiterates the principles set out in article 21 of the Universal Declaration of Human Rights, which declares that all people have the right to participate in the government of their country, and to access public services. The Convention on the Political Rights of Women specifically protects this right for women. The Convention was the first international legislation protecting the equal status of women to exercise political rights. Moreover, it was the first international treaty to obligate its states to protect citizens' political rights.
- ***Convention to the Consent of Marriage, Minimum Age of Marriage, and Registration of Marriages (1964):*** This convention requires the establishment of a minimum age for marriage by law, ensures the registration of marriage and reaffirms mutual consent for marriage by both parties. This was a treaty agreed upon in the United Nations on the standards of marriage. The treaty was opened for signature and ratification by General Assembly resolution on 7 November 1962 and entered into force 9 December 1964. The Convention reaffirms the consensual nature of marriages and requires the parties to establish a minimum marriage age by law and to ensure the registration of marriages.
- ***Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974):*** This convention states that women and children are often the victims of wars, civil unrest,

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;

- to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life -- including the right to vote and to stand for election -- as well as education, health and employment. The Convention is the only human rights treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. It affirms women's rights to acquire, change or retain their nationality and the nationality of their children.

- ***Declaration of the Elimination of Violence against women (1993):*** This Convention recognizes the right of a woman to live a life without violence. The Declaration on the Elimination of Violence against Women was adopted without vote by the United Nations General Assembly in its resolution 48/104 of 20 December 1993. Contained within it is the recognition of "the urgent need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity and dignity of all human beings". The resolution is often seen as complementary to, and a strengthening of, the work of the Convention on the Elimination of All Forms of Discrimination against Women and Vienna Declaration and Programme of Action. It recalls and embodies the same rights and principles as those enshrined in such instruments as the Universal Declaration of Human Rights and Articles 1 and 2 provide the most widely used definition of violence against women.
- ***Beijing Declaration and Platform for Action (1995):*** Adopted by the governments at the 1995 Fourth World Conference on Women, this document sets forth the governments' commitments to enhance women's rights. The Platform for Action imagines a world where

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.

- ***Convention on preventing and combating violence against women and domestic violence 2014:*** It is also known as Istanbul convention. The Istanbul Convention is the first legally-binding instrument that criminalizes violence against women. This convention creates a legal framework and approach to combat violence against women and focuses on preventing domestic violence, protecting victims and prosecuting accused offenders.



**CHECK YOUR PROGRESS**

**Q.3:** Write the full form of CEDAW?

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.....

**Q.4:** In which year was CEDAW adopted by UNO?

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.....

## 4.5 WORLD CONFERENCES ON WOMEN

The United Nations adopted Four World Conferences on Women's rights. All the four world conferences on women convened by the United Nations in the past quarter of a century have been instrumental in elevating the cause of gender equality to the very centre of the global agenda. The conferences have united the international community behind a set of common objectives with an effective plan of action for the advancement of women everywhere, in all spheres of public and private life. There have been four major conferance as listed below:

- First World Conference on Women (1975)
- Second World Conference on Women (1980)
- Third World Conference on Women (1985)
- Fourth World Conference on Women (1995)
- ***World Conference of the International Women's Year: Mexico City (19 June to 2 July 1975)***

  The first world conference on the status of women was convened in Mexico City to coincide with the 1975 International Women's Year,

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

Action from the 1975 inaugural conference on women as modified by the World Programme of Action of the second conference. Of significance during the conference was the end result of the Forward-looking Strategies for the Advancement of Women being adopted by consensus, unlike the previous two conferences. The conference marked the first time that lesbian rights were introduced in a UN official meeting and the turning-point for violence against women to emerge from being a hidden topic into one which needed to be addressed. Recognizing that the goals of the Decade for Women had not been met, the conference recommended and the General Assembly approved the on-going evaluation of women's achievements and failures through the year 2000.

- ***The Beijing Declaration and Platform for Action (1995)***

  This declaration was adopted unanimously at the United Nations Fourth World Conference on Women (4-15 September 1995) held in Beijing, China, by representatives from 189 countries. The Beijing Declaration and Platform for Action, adopted at the UN's Fourth World Conference on Women (Beijing, China, 1995), at which Ireland participated, is an agenda for women's empowerment. It aims at removing all the obstacles to women's active participation in all spheres of public and private life through ensuring women a full and equal share in economic, social, cultural and political decision-making. This means that the principle of shared power and responsibility should be established between women and men at home, in the workplace, and in the wider national and international communities.

  The Declaration and Platform for Action affirm that equality between women and men is a matter of human rights and a condition for social justice. It is also a necessary and fundamental prerequisite for equality, development and peace. To this end, the governments, the international community and civil society, including non-governmental organisations and the private sector, are called upon to take strategic action in the following **twelve critical areas of concern** for women globally:

- 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

necessary is striking - women's status as human beings entitled to rights should have never been in doubt.

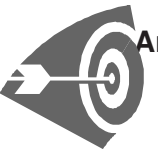
- The United Nations Entity for Gender Equality and the Empowerment of Women, also known as UN Women, is a United Nations entity working for the empowerment of women.
- The UN Women became operational in January 2011. The President of Chile Michelle Bachelet was the inaugural Executive Director, and Phumzile Mlambo-Ngcuka is the current Executive Director. It may be stated that, the UN Women is a member of the United Nations Development Group.
- The organization is governed by a multi-tiered intergovernmental governance structure in charge of providing normative and operational policy guidance. The General Assembly, Economic and Social Council, and the Commission on the Status of Women (CSW) constitute the governance structure that sets forth the normative policy guiding principles of the Entity. The intergovernmental governance structure in charge of providing operational policy guidance to UN Women includes the General Assembly, the Economic and Social Council and the organization's Executive Board.
- The mandate and functions of UN Women consist of the consolidated mandates and functions of the Office of the Special Adviser on Gender Issues and Advancement of Women, the Division for the Advancement of Women, the United Nations Development Fund for Women, and the International Research and Training Institute for the Advancement of Women. In addition, the entity must lead, coordinate, and promote the accountability of the United Nations system in its work on gender equality and women's empowerment.
- The goal of UN Women is to "enhance, not replace, efforts by other parts of the UN system such as UNICEF, UNDP, and UNFPA, which will continue to have a responsibility to work for gender equality and women's empowerment in their areas of expertise.



## 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.



## 4.9 POSSIBLE QUESTIONS

**A) Very Short Questions**

**Q. 1:** How many permanent members are there in the Security Council?

**Q. 2:** How many Judges are there in the International Court of Justice ?

**Q. 3:** Who was the first Secretary General of the United Nations?

**Q. 4:** Who was the first Indian to be the President of U. N. General Assembly ?

**Q. 5:** On which date did the U. N. O. adopt the Universal Declaration of Human Rights?

**Q. 6:** Who coined the term United Nations?

**Q. 7:** What is the term of United Nations Secretary General?

**Q. 8:** In which year was the UNO awarded the Nobel Peace Prize?

**Q. 9:** How many member countries did the UNO have on its formation in 1945?

**Q. 10:** How many official languages does the United Nations have?

**(B) Short Questions** (Answer each question in about 150 words)

**Q. 1:** Write about the organs of the UNO.

**Q. 2:** Why is gender equality important?

**Q. 3:** Write a note on CEDAW.

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

**Q. 1:** Critically examine the role of the UN in protecting the rights of women.

**Q. 2:** Discuss the various world conferences regarding women's rights.

**Q. 3:** Describe the different declarations and conventions adopted by the UN in order to attain gender equality.

*** ***** ***

# 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

a number of measures in this regard. In this unit, the role of the United Nations in promoting and protecting the rights of children will be highlighted.

## 5.3 THE ROLE OF THE UNITED NATIONS IN PROMOTING AND PROTECTING THE RIGHTS OF THE CHILDREN

If we look at the history of child rights, it was the Geneva Declaration of the Rights of the Child, adopted in 1924 by the League of Nations, which considered the rights of the children. The United Nations through its different conventions, declarations and committees has tried to protect the rights of children. The Charter of the United Nations in its Preamble mentions that "….We the people of the United Nations determined 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…." Thus, it indicates that the United Nations will always protect the dignity and rights of every human being including the rights of the children.

The Universal Declaration of Human Rights (UDHR) adopted in 1948 by the United Nations General Assembly confers rights to all human beings without any discrimination on the basis of age or sex. Article 24 of the Universal Declaration of Human Rights has highlighted certain specific issues related to the right of children, such as-

- Every child shall have, without any discrimination, the rights to such measures of protection as are required by his or her status as a minor, on the part of his or her family, society and the state.
- Every child shall be registered immediately after birth and shall have a name.
- Every child has the right to acquire a nationality.

Article 10, 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) also deal with the rights of the child. Article 10 of ICESCR has highlighted on family life, including paid parental leave and the protection of children. Apart from it, article 13 and 14 of the

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?

.....

**Q.3:** Mention any four rights included in the Declaration of the Rights of the Child.

.....

### 5.3.2 Convention on the Rights of the Child, 1989

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. This Convention can be regarded as the landmark development in the international efforts to strengthen justice, peace and freedom in the world through the protection of human rights of children. This is the first globally binding treaty for the protection of children's civil, political, economic, social and cultural rights. State parties to the Convention agree to take all appropriate measures to implement the rights recognized in the Convention. The United Nations Children's Fund (UNICEF) plays a very important role in promoting the principles laid down in the Convention.

The Preamble of the Convention clearly reflects its insistence on the rights of the child. This Convention defines a child as "a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." According to Savitri Goonesekere, the rights provided by the Convention can be classified into **four categories**. These are:

- **Survival Rights** which include provisions of adequate food, shelter, clean water and primary health care.
- **Development Rights** which include access to information, education, cultural activities, opportunities for rest, play and leisure and the rights to freedom of thought, conscience and religion.

- **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.

9. Every child has the right to benefit from social security, including social insurance, and the states shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
10. Every child has the right to the enjoyment of the highest attainable standard of health care facilities. Every child has the right to rest and leisure.
11. Every child has the right to education on the basis of equal opportunity.
12. Every child has the right to be protected from economic or any type of exploitation.
13. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

The Convention 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 state parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in this convention. The state parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference. The state parties shall encourage the mass media to disseminate information and material of social and cultural benefits to the child. The state parties shall also take all appropriate measures to ensure that children of working parents have the rights to benefit from child care services and facilities for which they are eligible. The State Parties shall undertake all actions to protect the child from all forms of sexual exploitation and sexual abuse. The State Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect. The State Parties shall also respect and to ensure respect the rules of international humanitarian law applicable to them in

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.

.....

.....

**Q.6:** The Vienna Declaration on Human Rights was adopted in the year ……. (Fill in the blank)

.....

- **Optional Protocols to the Convention on the Rights of the Child**

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. The aims of these two protocols are to protect children from armed conflict and sexual exploitation.

Optional Protocol on the Involvement of Children in Armed Conflict came in force on 12 February, 2002. This Optional Protocol recognizes minimum age for compulsory recruitment as 18 and urges the state parties to do everything they can do to prevent individuals under the age of 18 from taking direct part in hostilities.

The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography came into force on 18 January 2002. This optional protocol more particularly deals with the issue of serious violations of children's rights and their criminalization and emphasizes public awareness and international co-operation in efforts to eliminate them. These two Optional Protocols must always be interpreted in the light of the original convention as a whole and shall always be guided by the principle of non-discrimination for the best interest of the 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

for the adult population. Different Social Scientists and human rights activists prefer to establish a linkage between human rights instruments and the rights of the child. It will probably help in identifying the root causes of exploitation of children and their abuse.



**CHECK YOUR PROGRESS**

**Q.7:** What are the two Optional Protocols to the Convention on the Rights of the Child?

.....

.....

**Q.8:** What is the main objective of the World Declaration on the Survival, Protection and Development of Children and a Plan of Action?

.....

.....



## 5.4 LET US SUM UP

- Rights of the children are violated very often. The United Nations has adopted a number of measures to protect and promote the rights of the children.
- The Charter of the UN and the Universal Declaration of Human Rights contain a number of provisions related to the rights of children.
- The Declaration of the Rights of the Child which was adopted by General Assembly on 20 November, 1959. The Declaration contains 10 Principles related to the rights of children. Some of the important provisions incorporated in the Declaration are- 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 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 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 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.



## 5.5 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 & Upadhayay Archana (2004). *Human Rights*. New Delhi: Akansha Publishing House.

## 5.6 ANSWERS TO CHECK YOUR PROGRESS

**Ans. to Q. No. 1:** 1959

**Ans. to Q. No. 2:** 1924

**Ans. to Q. No. 3:** The Right to nationality, the right to development of personality, the right to education, the right to social security.

**Ans. to Q. No. 4:** 54 Articles

**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:** The Convention on the rights of child came into force in the year…….(Fill in the blanks).

**Q. 3:** Write two main objectives of the World Summit for Children, 1990.

**(B) Short Questions** (Answer each question in about 150 words)

**Q. 1:** Write a note on the Declaration of the Rights of the Child.

**Q. 2:** Write a short note on the World Summit for children, 1990.

**Q. 3:** Write about the Optional Protocols to the Convention on the Rights of Child.

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

**Q. 1:** Explain the provisions related to the rights of children incorporated in the UDHR.

**Q. 2:** Discuss the Convention on the Rights of Child.

**Q. 3:** Examine the role of the UN in promoting and protecting rights of the children.

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# 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

slowly and gradually lost their grip upon their fertile land, occupation etc. and became vulnerable in the hands of dominant outsiders. The indigenous people are also known as the "first people", "tribal people" and "autochthons". 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". The Vienna Declaration recognized the importance of the promotion and protection of the rights of the indigenous people and stated that States should, in accordance with international law, take positive steps to ensure respect for all human rights and fundamental freedoms of indigenous people on the basis of equality and non-discrimination, and recognized the value and diversity of their distinct identities, cultures and social organization. In this unit, we shall discuss the role of the United Nations in the promotion and protection of the rights and freedom of the indigenous people.

## 6.3 THE ROLE OF THE UNITED NATIONS IN PROMOTING AND PROTECTING THE RIGHTS OF THE INDIGENOUS PEOPLE

The United Nations Organization, through its different Declarations, series of discussions, and forum has been trying to promote and protect the rights of the indigenous people for the last decades. There are three different bodies to deal with the different issues of 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 and Fundamental Freedom of indigenous people and the Permanent Forum on Indigenous Issues. The Working Group deals with the issue of human rights violation of the indigenous people and the improvement of their situation. The Special Rapporteur investigates the cases related to their abuses and atrocities upon the indigenous people. Since the Permanent Forum on Indigenous Issues need to act under Economic and Social Council, so it basically deals with the socio-economic status of the indigenous people. This Forum also covers certain aspects falling outside the human rights category.

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?

.....

.....

## 6.4 THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE

The Declaration on the Rights of Indigenous People was adopted by the UN General Assembly in 2007. The Preamble of the Declaration carries immense significance. Some of the important points of the Preamble of the Declaration are-

1. The Preamble affirms that the indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such
2. The Preamble also affirms that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,
3. The Preamble affirms further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,
4. The Preamble reaffirms that the indigenous peoples, in the exercise of their rights, should be free from discrimination,
5. The Preamble also expresses its concern that the indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development,
6. The Preamble also recognizes the urgent need to respect and promote the inherent rights of the indigenous people which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands,
7. The Preamble also recognizes the urgent need to respect and promote the rights of the indigenous people affirmed in treaties, agreements and other constructive arrangements with States,

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,

15. The Preamble also mentions that nothing in this Declaration may be used to deny any people their right to self-determination and it should be exercised in conformity with the international law,

16. The Preamble also states that the recognition of the rights of indigenous people in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on the principles of justice, democracy, respect for human rights, and non-discrimination,

17. The Preamble encourages the States to comply with and effectively implement all their obligations as they apply to the indigenous people under international instruments, particular by those related to human rights, in consultation and cooperation with the people concerned,

18. The Preamble emphasizes that the United Nations has an important and continuing role to play in promoting and protecting the rights of the indigenous people,

19. The Preamble believes that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of the indigenous people and in the development of relevant activities of the United Nations system in this field,

20. The Preamble recognizes and reaffirms that the indigenous individuals are entitled without any discrimination to all human rights recognized in international law, and that the indigenous people possess collective rights which are indispensable for their existence, and wellbeing,

21. The Preamble recognizes that the situation of indigenous people varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

The Declaration contains a number of provisions for the promotion and protection of the rights and freedom of the indigenous people. Some of the important provisions of this Declaration are-

- 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 shall not be forcibly removed from their lands and territories. (Article 10)
- The Indigenous people have the right to special protection and security in periods of armed conflict. (Article 11)
- The Indigenous people have the right to practise and revitalize their cultural traditions and customs. (Article 12)
- The Indigenous people have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons. (Article 13)
- The Indigenous people have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. (Article 14)
- The Indigenous people have the right to dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information. (Article 15)
- The Indigenous people have the right to have dignity and diversity of their cultures, traditions, histories and aspirations. (Article 16)
- The Indigenous people have the right to enjoy fully all rights established under the international labour law and international labour legislation. (Article 18)
- The States shall consult and cooperate in good faith with the indigenous people concerned through their own representative institutions in order to obtain their prior and informed consent before adopting and implementing legislative or administrative measures that may affect them. (Article 19)
- The Indigenous people have the right to determine and develop priorities and strategies for exercising their right to development. (Article 23)

- 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.

For the effective implementation of the Declaration, different organs of the United Nations have contributed a lot. Along with different organs, the state parties are also playing a very significant role in terms of restoring peace and guaranteeing rights of the indigenous people. The Declaration under Article 37 states that the states shall take effective and appropriate measures, in consultation with the indigenous people concerned, to give full effect to each and every right enshrined in the Declaration. According to Article 40, the organs of the United Nations and the specialized agencies and other inter-governmental organizations shall contribute to the full realization of the rights provided in this Declaration through mobilization of financial cooperation and technical assistance. Likewise, Article 41 provided that the United Nations shall take necessary steps to ensure the implementation of rights stated in the Declaration including the creation of a body at the highest level with special competence in this field and with the direct participation of indigenous people.

## 6.5 PERMANENT FORUM OF INDIGENOUS ISSUES

Permanent Forum on Indigenous Issues was established by the Economic and Social Council in July, 2000 as a subsidiary organ. This forum consists of sixteen members, eight of whom are nominated by governments and elected by the Council, while the other eight members are appointed by the Council's President. In order to raise awareness and promote the integration and coordination of relevant activities within the United Nations, this Permanent Forum was established. A new Secretariat for the Permanent Forum on Indigenous Issues started working from February, 2003 with a view to help indigenous persons around the globe by providing expert advice and recommendations on economic and social development and other related important issues.

The background for the creation of Permanent Forum of Indigenous Issues was discussed at the 1993 World Conference on Human Rights in

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 -

(i) The Permanent Forum urges all States to substantially increase the human, financial and technical resources made available to implement the Declaration and to overcome the gaps between the formal recognition of indigenous peoples and the implementation of their rights.

(ii) The Permanent Forum encourages the member States and other development agencies to formulate, in accordance with the Declaration, policies that ensure inclusion of the indigenous people as partners in the development process with a meaningful role in the design, implementation, monitoring and evaluation of all projects that affect their territories, rights and livelihoods.

(iii) The Permanent Forum urges the United Nations agencies, funds and programmes to cooperate with the States and the indigenous people in the development and implementation of national action plans, strategies and other measures that aim to achieve the goals of the Declaration, including providing support for the advancement and adjudication of the collective rights of the indigenous people to their lands, territories and resources.

(iv) The Permanent Forum encourages the International Labour Organization to promote the ratification of the Indigenous and Tribal Peoples Convention, 1989.

(v) The Permanent Forum encourages resident coordinators and United Nations member country teams to ensure full and effective participation of the indigenous people, including the indigenous women and youth, in the preparation of the United Nations Development Assistance Frameworks and country programme action plans.

(vi) The Permanent Forum recommends to the International Labour Organization and its Governing Body the organization of a technical expert meeting to consider the drafting of a Recommendation to supplement the Indigenous and Tribal People's Convention.



**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

and Fundamental Freedoms of Indigenous People and the Permanent Forum on Indigenous Issues.

- The Declaration on Rights of the Indigenous People was adopted by the United Nations General Assembly in 2007 which enumerated a number of rights for the indigenous people.
- The Permanent Forum on Indigenous Issues was established by the Economic and Social Council in July 2000 as a subsidiary organ. In order to raise awareness and promote the integration and coordination of relevant activities within the United Nations, this Permanent Forum was established.
- 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.
- We must recognize and respect the rights of indigenous people. The United Nations has also urged all the member states to take appropriate and effective measures which will protect the rights of indigenous people. The development process of every state must be an inclusive one which will take care of the needs and aspirations of each and every category of people including the indigenous people.



## 6.7 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 & Upadhayay Archana (2004). *Human Rights*. New Delhi: Akansha Publishing House.

## 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.



## 6.9 POSSIBLE QUESTIONS

**A) Very Short Questions**

**Q. 1:** Which Decade was observed as the Decade of the World's Indigenous People?

**Q. 2:** State the meaning of the term “indigenous people”.

**Q. 3:** Mention two measures adopted by the UN to promote and protect the rights of the indigenous people.

**(B) Short Questions** (Answer each question in about 150 words)

**Q. 1:** Write briefly about the role of the United Nations in protecting the rights of the indigenous people.

**Q. 2:** Explain the significance of the Declaration on Rights of the Indigenous People.

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

**Q. 1:** Discuss the various rights incorporated in the Declaration on Rights of the Indigenous People.

**Q. 2:** Mention the main functions of the Permanent Forum on Indigenous Issues.

**Q. 3:** Examine the role of the Permanent Forum on Indigenous Issues in protecting and promoting the rights of the indigenous people.

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# UNIT 7: HUMAN RIGHTS EDUCATION

## UNIT STRUCTURE


7.1 Learning Objectives

7.2 Introduction

7.3 UNESCO and Human Rights

7.4 Human Rights Education

7.5 UNESCO and Montreal Protocol

7.6 Let Us Sum Up

7.7 Further Reading

7.8 Answers to Check Your Progress

7.9 Possible Questions


## 7.1 LEARNING OBJECTIVES

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

- know the meaning of human rights
- analyze the role of the UNESCO and its measures taken for human rights
- explain the concept of Human Rights Education
- describe the Montreal Protocol.

## 7.2 INTRODUCTION

Human rights are inherent and inalienable rights which are due to an individual by virtue of his/her being a human being. These rights are necessary to ensure the dignity of every person as a human being irrespective of sex, race, religion, language, nationality and other factors. Human Rights Day is observed on 10th December, the day on which the United Nations General Assembly adopted in 1948 the Universal Declaration of Human Rights (UDHR). To establish the human rights as the birth right of every individual, the United Nations was formed on 24th October, 1945. In this unit we shall try to discuss the various aspects of human rights education.

## 7.3 UNESCO AND HUMAN RIGHTS

For the effective implementation of human rights, some international agencies are very important. The United Nations Educational Scientific and Cultural Organization (UNESCO) is one of the specialized agencies of the United Nations. The UNESCO came into existence on November 4, 1946 and since then, it has longstanding experience in the field of human rights education. In December 1948, the UNESCO was the first United Nations Agency to place the Universal Declaration of Human Rights (UDHR) at the heart of all its action, to promote it across the world through education and media. The idea of Human rights gained new meaning when they become a reality in the daily life of every individual in the world. Bringing human rights home is at the core of UNESCO's mission in all its fields-education, science, culture and communication. When UNESCO was created at the end of World War II in the wake of the International Commission of Intellectual Cooperation, it was based on the conviction that the respect for justice and human rights are essential to build peace. The Constitution of the UNESCO clearly stated its objectives to maintain peace and security and to further universal respect for justice, for the rule of law and for human rights and fundamental freedoms. These universal values of human rights are at the heart of UNESCO's mandate which explains the necessity of its contribution. The contribution of the Universal Declaration of Human Rights (UDHR) has been considerable competence extends to the rights relating to education, science (including social science) and culture and communications which includes freedom of opinion and expression and the freedom of press.

In the context of the commemoration of the 70th anniversary of the Universal Declaration of Human Rights (UDHR), the UNESCO brings to fore the centrality of human rights protection in the history and the organisation. The UNESCO, in accordance with its Constitution adopted in 1945, should contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for human rights and fundamental freedoms. The UNESCO was mainly guided by the Universal

Declaration of Human Rights (UDHR) and it tried to disseminate knowledge on human rights by means of education.

The United Nations Educational, Scientific and Cultural Organization's (UNESCO) activities on human rights focus on:

i) Encouraging and disseminating human rights research

ii) Promoting education in human rights

iii) Fighting against all forms of discrimination

iv) Encouraging cooperation

v) Promoting democracy

Most of the UNESCO's conventions, declarations and recommendations are closely related to human rights- making the rights of the Universal Declaration of Human Rights (UDHR) more specific, more concrete and better adapted to the challenges of modern society. For example:

The UNESCO Convention against Discrimination in Education came into force in 1962 which plays an important role to promote equality of opportunity and treatment in matters of education.

The UNESCO has also undertaken efforts to protect cultural property, consisting that this field of interest is closely linked with cultural rights. There are three conventions of the UNESCO- The Convention for the protection of cultural property in the event of Armed conflict with regulation for the execution of the convention as well as the protocol to the convention and conference resolutions (1954); The Convention on the Means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property (1970) and The Convention concerning the protection of the World Cultural and Natural Heritage.

As a specialized agency responsible for education, science including social sciences and culture within the United Nations system, the UNESCO sponsors an important interdisciplinary research programme which seeks to determine the social, economic and cultural factors which govern the perception of rights and their implementation. UNESCO's interest in human

rights education further enhanced as a result of its key role in the Education for All (EFA) movement in the last decade.

Within UNESCO's direct competence in relation to the UDHR, there are certain rights which are as the following :

1) Right to education (Article 26)

2) Right to take part in cultural life (Article 27)

3) Right to freedom of opinion and expression including the right to seek, receive and impart information (Article 19)

4) Right to enjoy the benefits of science, progress and its applications (Article 27)

The various provisions of the UDHR were introduced into the national constitutions and they were further developed, codified and given binding forces in numerous regional and international treaties for the protection of specific rights or rights of specific groups.

Within the UNESCO, the protection of human rights is assured by the Committee on Conventions and Recommendations, working alongside the countries concerned. This committee examines cases and issues relating to complaints of alleged violations of human rights.

After sixty years of adoption of the UDHR, the UNESCO always strives to improve the knowledge and understanding of all human rights whether- civil, cultural, economic, political or social. Education for and on human rights have become a prime concern for the organization which is now recognized as a leader in this field within the UN System. Another priority of the UNESCO is the mainstreaming of human rights in all its areas of action and the pursuit at further integrating a human rights-based approach into its programmes, thereby increasing its contribution to the advancement of human rights. This approach promotes further social cohesion with participation of all and build respect for peace and non-violent conflict.

From the above discussion, we may say that the UNESCO is an important agency for promoting the rights of individual as a whole. But, despite all the

accomplishments, the situation of human rights in the world is far from satisfactory. However, the UNESCO is actively participating in the identification of emerging human rights in the context of a modern global society where issues like multiculturalism and multilingualism have changed considerably. Further, it helps its member countries to deal with problems like climate change, nuclear threat, social transformations which include the increasing gap between the rich and the poor, marginalization and discrimination and defamation of religions and religious intolerance. On many of these issues, the UNESCO has adopted various plans of action such as the Universal Declaration on Bioethics and Human Rights in 2005 or the Universal Declaration on Cultural Diversity in 2001. Other examples are like; in 2006, it founded the Women's Research and Documentation Centre in Palestine; in 2011, a Regional Research and Documentation Centre for Women, Gender and Peace-building in the Great Lakes Region of Central Africa in Kinshasa has been inaugurated. In the early 1990, the UNESCO started its 'chair programme' and there are several UNESCO chairs at the African universities on the topic of human rights such as the following:

a) UNESCO Chair for teaching, research and human rights education, democracy and peace established in 1995 at the University of Oran-Es Senia (Algeria)

b) UNESCO Chair in Human Rights and Democracy, established in 1995 at the Abomey-Calavi University (Benin)

c) UNESCO Chair in Education for Peace, Conflict Resolution, established in 1999 at the University of Burundi

d) UNESCO Chair in Culture of Peace, Conflict Resolution, Human Rights, Democracy and Good Governance, established in 2000 at the University of Kinshasa (Democratic Republic of the Congo)

e) UNESCO Chair in Human Rights, established in 2002 at the American University in Cairo (Egypt)

f) UNESCO Chair in Education for Human Rights and Democracy, established in 1994 at Addis Ababa University (Ethiopia)

g) UNESCO Chair for the Promotion of Culture of peace and Human Rights established in 2000 at the University of Mali

h) UNESCO Chair in Culture of Peace established in 1999 at Mohammed 1st University (Morocco)

i) UNESCO Chair on Women's rights established in 1999 at Mohammed V Souissi University (Morocco)

j) UNESCO Chair for Teaching, Training and Research in the field of Human Rights established in 1996 at Mohammed V University (Morocco)

k) UNESCO-ULTRECHT Chair on Democracy and Human Rights, established in 1994 at the University of Namibia

l) UNESCO "Oliver Tambo" Chair on Human Rights established in 1996 at the University of Fort Hare (South Africa)

m) Herbert Chitepo UNESCO Chair on Human Rights, Democracy, Peace and Governance established in 1998 at the University of Zimbabwe (Zimbabwe)

The UNESCO has thus taken over a special responsibility for the implementation of the human rights in education and the respect of human rights in education. Together with the OHCHR, the organization is responsible for the world programme on human rights education adopted by the UN General Assembly in December 2004. Its first phase focused on schools (2005-2009), the second phase focused on higher education and on human rights training programmes for teachers and educators, civil servants, law enforcement officials and military personnel at all levels.

## 7.4 HUMAN RIGHTS EDUCATION

The Education for All (EFA) movement launched in Jomtien in 1990 focused primarily on access to education, in spite of the far reaching goals and objectives of the Jomtien Declaration. It was found after a decade of action that mere access to education is not enough but the necessity is to implement a quality education and each person has a

right to participate in quality education. Quality education is not limited to reading, writing and arithmetic but it should be expanded to address new challenges such as universal values, peace and security and informed decision-making. In fact, quality education, according to the new vision, has to be based on human rights approach. A quality education based on human rights approach means that human rights are implemented throughout the whole education system and in all learning environments. That means, the education system is oriented towards human values allowing the realization of peace, social cohesion and respect for human dignity. It implies reforming national educational systems to include fundamental change of education structures, the management of the education system, teaching and learning practices, the revision and the adaptation of learning materials and the adequate preparation of educational personnel. UNESCO has made its mission to promote access to quality education for all as a fundamental human right. Quality education is considered to be the appropriate context for implementing human rights education.

The holistic approach of human rights means that human rights education implies the learning and practice of human rights. Human rights are implemented at all levels of the education system, and they are taught both through content transmission and experiences. Human rights education should provide opportunities for all young people to develop and practice the skills to respect human rights and citizenship through school life. Human rights education is not merely about imparting knowledge and skills, it is also about creating attitudes and behaviours allowing people to participate in their communities and society in a constructive and respectful way for themselves and others. Human rights education is a comprehensive and life long process which should make peace, human rights and democracy a matter of daily practice. Moreover, human rights education should provide information on the content important human rights treaties and instruments beginning with the Universal Declaration of Human Rights (UDHR) and the Bill of Rights.

Again children should also learn about human rights by seeing human rights standards and principles implemented in practice in the classroom, at home and within the community. Therefore, the school environment itself must respect and promote human rights and fundamental freedom understanding tolerance, equality and friendship among all people.

## 7.5 UNESCO AND MONTREAL PROTOCOL

In March 1993, an International Congress on Education for Human Rights and Democracy held in Montreal, Canada which is initiated by UNESCO and the United Nations Centre for Human Rights in collaboration with the Canadian Commission for UNESCO. The Congress had adopted the world plan of action on education for human rights and democracy. The plan of action stresses that education for democracy is an integral part or aspect of education for human rights and noted that education for human rights and democracy is itself a human right and a prerequisite for the realization of human rights, democracy and social justice. 'The Montreal Protocol' outlines that the means of providing education for human rights and democracy could be made effective and comprehensive worldwide. The mainline of action identified in the Montreal Protocol are given below-

a) Identification of the target groups.

b) The development of appropriate curriculum.

c) Research into education for human rights and democracy.

d) The revision of school textbooks with the aim of eliminating stereotypes.

e) The building of networks among educates.

f) Increasing resources for education for human rights and democracy.

g) Designing of cost effective and sustainable educational programmes.

Besides these, this plan also identifies the obstacles to be overcome in the field of human rights education.

The General Assembly of the UNO appealed to all the governments to contribute to the implementation of the plan of action which is adopted in the Montreal Protocol and to set up their efforts to eradicate illiteracy and to direct education towards the full development of the human personality and to the strengthening of respect for human rights and fundamental freedom. It further urged governmental and non-governmental educational agencies to identify these efforts to establish and implement programmes of human rights education, particularly by preparing and implementing national plans in this field. The United Nations High Commissioner for Human Rights education was requested to co-ordinate the implementation of the plan of action.

It is also said that plan of action shall be implemented to protect the democracy and to promote human rights education in the world.



**CHECK YOUR PROGRESS**

**Q.1:** In which year did the UNESCO come into existence?

.....

**Q.2:** Name the three conventions of the UNESCO.

.....

.....

**Q.3:** In which year Education for All (EFA) launched?

.....

**Q.4:** Where was the International Congress on Education for Human Rights and democracy held?

.....

**Q.5:** When was the Universal Declaration on Cultural Diversity adopted?

.....



## 7.6 LET US SUM UP

- Human rights are inherent and inalienable rights which are due to an individual by virtue of his/her being a human being.
- The UNESCO was mainly guided by the Universal Declaration of Human Rights (UDHR) and it tried to disseminate knowledge on human rights by means of education.
- The UNESCO sponsors an important interdisciplinary research programme which seeks to determine the social, economic and cultural factors which govern the perception of rights and their implementation.
- In March 1993, an International Congress on Education for Human Rights and democracy held in Montreal, Canada which is initiated by UNESCO and the United Nations Centre for Human rights in collaboration with the Canadian Commission for UNESCO.
- The General Assembly of the UNO appealed all the governments to contribute to the implementation of the plan of action which is adopted in the Montreal Protocol and to set up their efforts to eradicate illiteracy and to direct education towards the full development of the human personality and to the strengthening of respect for human rights and fundamental freedom.
- Human rights education should provide opportunities for all young people to develop and practise the skills to respect human rights and citizenship throughout school life. Human rights education is not merely about imparting knowledge and skills, it is also about creating attitudes and behaviour allowing people to participate in their communities and society in a constructive and respectful way for themselves and for others. Human rights education is a comprehensive and life long process which should make peace, human rights and democracy a matter of daily practice. Moreover,

human rights education should provide information on the content important human rights treaties and instruments beginning with the Universal Declaration of Human Rights (UDHR) and the Bill of Rights. Again, children should also learn about human rights by seeing human rights standards and principles implemented in practice in the classroom, at home and within the community.



## 7.7 FURTHER READING

1. Yasin, Adil-ul and Upadhya, Archana (2004). *'Human Rights'*. New Delhi. Akansha Publishing House.
2. https://en.unesco.orgs

## 7.8 ANSWERS TO CHECK YOUR PROGRESS



**Ans. to Q. No. 1:** On November 4, 1946 the UNESCO came to existence.

**Ans. to Q. No. 2:** The Convention for the protection of cultural property in the event of Armed conflict with regulation for the execution of the convention as well as the protocol to the convention and conference resolutions (1954); The Convention on the Means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property (1970) and The Convention concerning the protection of the World Cultural and Natural Heritage.

**Ans. to Q. No. 3:** In 1990, the Education for All (EFA) movement was launched.

**Ans. to Q. No. 4:** In March 1993, an International Congress on Education for Human Rights and democracy held in Montreal, Canada which is initiated by the UNESCO.

**Ans. to Q. No. 5:** In 2001, the Universal Declaration on Cultural Diversity adopted.



## 7.9 POSSIBLE QUESTIONS

**A) Very Short Questions**

**Q. 1:** Write two mainline of actions identified in the Montreal Protocol.

**Q. 2:** Education for All movement was launched in the year ……. (Fill in the blank).

**Q. 3:** Write the full form of UNESCO.

**(B) Short Questions** (Answer each question in about 150 words)

**Q. 1:** Why rights are important?

**Q. 2:** What is the role of the three Conventions of the UNESCO?

**Q. 3:** Name the various 'chair programme' of the UNESCO.

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

**Q. 1:** Discuss the role of the UNESCO for ensuring human rights.

**Q. 2:** Discuss the role of the UNESCO in providing education for human rights with reference to Montreal Protocol.

**Q. 3:** Discuss human rights education.

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# UNIT 8: INTERNATIONAL LABOUR ORGANIZATION AND HUMAN RIGHTS

## UNIT STRUCTURE


8.1 Learning Objectives

8.2 Introduction

8.3 International Labour Organization (ILO)

- 8.3.1 Formation of the ILO
- 8.3.2 Functions of the ILO
- 8.3.3 Governance and policy making of the ILO
- 8.3.4 Standards guaranteed by the ILO

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

8.5 Elimination of all Forms of Forced and Compulsory Labour

8.6 Effective Abolition of Child Labour

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

8.8 The Role of ILO in Promoting and Protecting Human Rights

- 8.8.1 Social Protection

8.9 Let Us Sum Up

8.10 Further Reading

8.11 Answers to Check Your Progress

8.12 Possible Questions


## 8.1 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

## 8.2 INTRODUCTION

The industrial revolution caused the emergence of the feature of the employers exploiting labour to the utmost extent with a view to lowering the cost of production of goods and maximizing profits.

As the industrial products were sold in the competitive international markets, any State, which by itself started to make the conditions better for the labour, faced the prospect of increasing the cost of production of its manufactures and loss in international trade. So, it was urged that the betterment of the labour must take place in all States simultaneously and international cooperation was a necessity in this regard.

At the Paris Peace Conference, 1919, the constitution of the ILO was adopted as Part III of the Peace Treaty and the ILO was established with its headquarters at Geneva. During the World War II, the Philadelphia Declaration was adopted, and since then, the rights of the labour became closely connected with fundamental human rights. The ILO is one among the U.N. specialized agencies. In this unit, we shall discuss the formation, role and functions of the ILO.

## 8.3 INTERNATIONAL LABOUR ORGANIZATION (ILO)

The Preamble of the ILO Constitution rightly relates universal and lasting peace to social justice and aims at removing injustice, particularly from amongst the labour conditions. The Philadelphia Declaration adopted in the 26th session by the General Conference on 10 May 1944 reaffirms the fundamental principles and declares that 1) labour is not a commodity; 2) freedom of association are essential to sustained development; 3) poverty anywhere constitutes danger to prosperity everywhere; and 4) the war against want requires to be carried on with uncompromising strength and stamina within each nation and by continuous and united international effort for the promotion of the common welfare.

### 8.3.1 Formation of the ILO

The ILO was established after the World War I, on April 9, 1919 as an autonomous institution by the Treaty of Versailles and

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).

The International Labour Office is headed by the Director-General and its staff are the experts drawn from different countries of the World. The Office is located at Geneva but its branch offices located are in many other countries. The chief responsibility of the Office is to prepare documents and bring out publications. It also makes studies and researches on different problems connected with labour.

### 8.3.2 Functions of the ILO

The main functions of the ILO are to examine and consider all international economic and financial policies and measures so that all human beings may pursue both their material well-being and their spiritual development in conditions of freedom and dignity based on economic security and equal opportunity.

The other functions include the development and promotion of standards for national legislation to protect and improve working conditions and standards of living.

The ILO has been working for the development of labour standards and conditions throughout the world. It has drafted scores of Conventions and recommendations, collectively designated as International Labour Code, covering a variety of subjects, such as relating to employment, unemployment, employment of women and children, vocational training, industrial health and safety, social security, industrial relations, maritime labour, immigration, freedom of association and trade union rights.

### 8.3.3 Governance and Policy Making of the ILO

The ILO's broad policies are set by the International Labour Conference, which meets once a year and bring together the organization's constituents. The Conference also adopts new international labour standards and approves the ILO's work plan and budget.

### 8.3.4 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.

## 8.4 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.

The Convention on Freedom of Association is "Freedom of Association and Protection of the Right to Organize Convention (No. 87). And the Convention of Collective Bargaining is " Right to Organize and Collective Bargaining Convention (No. 98).

## 8.5 ELIMINATION OF ALL FORMS OF FORCED AND COMPULSORY LABOUR

Forced labour occurs where work or service is controlled by the State or by individuals who have the will and power to threaten workers with severe deprivations, such as withholding food or land or wages, physical violence or sexual abuse, restricting peoples' movements or locking them up.

Bonding workers through debts is in fact, a widespread form of forced labour in a number of developing countries.

Labour trafficking can give rise to forced labour. The traffickers trap people through indebtedness by cash advances or loans. Traffickers may also resort to kidnapping, notably of children.

The ILO has created the Forced Labour Convention (No. 29) to protect humans from Forced Labour. This Convention is nothing but to protect human rights.

## 8.6 EFFECTIVE ABOLITION OF CHILD LABOUR

Children enjoy the same human rights accorded to all people. They should get protection from all kinds of exploitation. One of these is protection from economic exploitation and from work that is dangerous to the health and morals of children or hampers the child's development.

The principle of the effective abolition of child labour means ensuring that every girl and boy has the opportunity to develop physically and mentally to her or his full potential. Its aim is to stop all work by children that jeopardizes their education and development. This does not mean stopping all work performed by children. International labour standards allow the distinction to be made what constitutes acceptable and unacceptable forms of work for children at different ages and stages of development.

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).

## 8.7 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

(Employment and Occupation) Convention (No.111) were created for the protection of human rights.

## 8.8 THE ROLE OF ILO IN PROMOTING AND PROTECTING HUMAN RIGHTS

After the World War II, the ILO addressed itself to new issues such as social problems created by liberalization of international trade, and problems relating to human rights such as child labour and the relationship between the working conditions and environment.

Since the formation of the ILO, its effort to protect the rights of children and young persons has been commendable. Over the years, the ILO has adopted 12 major Conventions which either prohibit the employment of children or set basic conditions above a certain age when they may be permitted to work in different sectors of employment. The ILO in 1990 launched a major programme as the "International Programme on the Elimination of Child Labour" (IPEC). The Programme provides on the request of individuals and technical advisory to focus on the abuse of children both boys and girls, to see their working conditions in hazardous industries, forced labour and the working of street children and the employment of children below 13 years old.

The most effective step taken by the ILO for the protection of human rights was when it adopted on June 17, 1999 in Geneva, a landmark Convention on Worst Forms of Child Labour Convention (ILO Convention No. 182). The Convention came into force on November 19, 2000. The Convention applies to all children under the age of 18, called for countries where there is debt bondage and child prostitution and also forced recruitment of children in armed conflict. The Convention also required ratifying countries to provide support for improving children from dangerous labour and ensure access in education or vocational training.

In the first decade, the ILO was primarily concerned with legislative and research efforts with defining and promoting proper minimum standards of labour legislation. During the Worldwide economic depression of the

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?

.....

### 8.8.1 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

die from occupational accidents or work related diseases. The safety of the work varies enormously between countries, economic sectors and social groups. Deaths and injuries take a particularly heavy toll in the developing nations, where a large number of people are engaged in hazardous activities such as agriculture, construction, fishing and mining. Throughout the world, the poorest and least protected - women, children and migrants- are among the most affected.

Given the progress that many industrialized countries have made in reducing serious injuries, it is clear that improvements in workplace safety yield results. Yet there is lack of awareness, knowledge and information about the issue. The ILO works to fill this gap through research, advocacy and technical assistance. It helps countries to develop management tools, monitoring and information services, with the primary focus on hazardous occupations.

In a relatively short period, the pandemic of HIV/AIDS has become one of the most critical workplace issues. The epidemic's devastating impact on these women and men and their families, it affects the world of work in many ways. For example, discrimination against people with HIV/AIDS threatens fundamental rights at work, undermining opportunities for people to obtain decent employment.

The ILO, in 2001 adopted a Code of practice on HIV/AIDS and the World of Work with consultations among governments, employers and workers.

The pioneering Code is designed to help prevent the spread of HIV/AIDS while managing and mitigating its workplace impact. Among the Code's key principles are non-discrimination, gender equality, a healthy working environment, no HIV testing for the purposes of employment, confidentiality and the continuation of the employment relationship. Increasingly, the code is serving as a reference point for employers and trade unions negotiating agreements on handling HIV/AIDS in the world of work.

The ILO places special importance on developing and applying safety and health culture in workplaces worldwide.



## 8.9 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.



## 8.10 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



## 8.11 ANSWERS TO CHECK YOUR PROGRESS

**Ans. to Q. No. 1:** The ILO was established after the First World War on April 19, 1919 as an autonomous institution by the Treaty of Versailles and was associated with the League of Nations.

**Ans. to Q. No. 2:** The Headquarter of the ILO is situated in Geneva.

**Ans. to Q. No. 3:** The Conference, Governing Body and the International Labour Office constitute the the ILO.

**Ans. to Q. No. 4:** The Programme that the ILO launched in 1990 was "International Programme on Eliminating of Child Labour (IPEC)".

**Ans. to Q. No. 5:** The most effective step was taken by the ILO on June 17, 1999 in Geneva where it adopted a landmark Convention on Worst Forms of Child Labour Convention (ILO Convention No. 182).The Convention came into force on November 19, 2000.

**Ans. to Q. No. 6:** The ILO was awarded Nobel Peace Prize in 1969 for Peace.

## 8.12 POSSIBLE QUESTIONS

**A) Very Short Questions**

**Q. 1:** Mention the chief responsibility of the ILO.

**Q. 2:** In which year was the ILO awarded the Nobel Peace Prize for Peace?

**Q. 3:** The Headquarter of the ILO is situated in …….. (Fill in the blank).

**(B) Short Questions** (Answer each question in about 150 words)

**Q. 1:** Write a note on the ILO and human rights.

**Q. 2:** Explain three functions of the ILO.

**Q. 3:** Write a note on the elimination of discrimination in respect of employment and occupation by the ILO.

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

**Q. 1:** Discuss the formation of the ILO.

**Q. 2:** Explain the functions of the ILO.

**Q. 3:** Examine the role of the ILO in promoting and protecting Human Rights.

*** ***** ***

Name of the Paper: .....
Course Code: .....

**Centre for Internal Quality Assurance (CIQA)**
**Krishna Kanta Handiqui State Open University**
**City Office: Housefed Complex, Guwahati-781006**

*Learner's Feedback on Course*

**Dear Learner,**

Regarding the course as mentioned above, we would like to know your opinions and comments so as to improve the quality of self learning materials in future. Please respond to the following statements by ticking the number you feel most reflect your opinion. After completion of the additional comments, please detach the page and send/mail the same to us at the address given below.

**The Director, Centre for Internal Quality Assurance, KKHandiqui State Open University**
**Housefed Complex, Dispur, Guwahati-781006**
**(E-mail id: ciqa@kkhsou.in)**

1) Approximately how many hours did you spend for studying the units in the course? ☐☐☐

2) Please give your opinions (by ✓ mark) to the following items based on your reading of the block:

| Sl. No. | Statements | Strongly Agree | Agree | Neither Agree nor Disagree | Disagree | Strongly Disagree |
|---|---|---|---|---|---|---|
| I) | The SLMs of the course fulfil the learning objectives set out in the beginning of each unit | | | | | |
| II) | The units of the SLM could satisfy my academic needs and expectations | | | | | |
| III) | The Unit writers have excellent knowledge about the course contents | | | | | |
| IV) | Language and contents of the units were presented at a level which I could readily understand | | | | | |
| V) | Ample opportunity for participation in the activities provided in the units | | | | | |
| VI) | Used enough Illustrations (Diagrams, tables etc.) for conceptual clarity | | | | | |
| VII) | Quality of content is engaging, relevant, and up-to-date | | | | | |
| VIII) | The self check questions are very helpful | | | | | |
| IX) | The Possible/model questions and the answers to check my progress have benefited me a lot | | | | | |

**Additional Comments:** *(Please feel free to provide your open comments)*

1) Which aspects of the SLM, according to you, worked well?

.....

.....

2) What sort of changes/improvements do you feel KKHSOU could implement to improve the overall quality of the SLM?

.....

.....

***Thank you for taking the time to complete this form.***