COURSE GUIDE

INR 461
HUMAN RIGHTS

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CONTENTS **PAGE**

INTRODUCTION

In this course, you will be exposed to the nitty-gritty of human rights, and other concerns like-historical and political backgrounds, the emergence of the modern state and man's position in it – with particular regard to English and French writers since the reformation, especially Hobbes, Locke and Rousseau; basic principles, and the three generations of Human Rights, regional human rights; promotion and protection by the UN: Refugees and Human rights; Populations and Human rights; Human rights and development; Human rights and foreign policy.

COURSE AIMS

The major aim of this course is to provide students with inclusive understanding of Human right and the effort put in place globally, regionally and nationally to protect infringement on Human right and promote Human Right across the globe.

OBJECTIVES

The specific objectives of each study unit can be found at the beginning and you can make references to it while studying. It is necessary and helpful for you to check at the end of the unit, if your progress is consistent with the stated objectives and if you can conveniently answer the self-assessment exercises. The overall objectives of the course will be achieved, if you diligently study and complete all the units in this course.

WORKING THROUGH THE COURSE

To complete the course, you are required to read the study units and other related materials. You will also need to undertake practical exercises for which you need a pen, a note-book, and other materials that will be listed in this guide. The exercises are to aid you in understanding the concepts being presented. At the end of each unit, you will be required to submit written assignment for assessment purposes.
At the end of the course, you will be expected to write a final examination.

THE COURSE MATERIAL

In this course, as in all other courses, the major components you will find are as follows:

1. Course Guide
2. Study Units
3. Textbooks and references
4. Assignment file
5. Presentation Schedule

STUDY UNITS

There are 17 units in this course. They are listed as follows.

Module 1 Introduction/ Background to Human Rights

Unit 1 Introduction, Concepts, Theories and Sources of Human Rights
Unit 2 Basic Principles of Human Right
Unit 3 The Philosophers: Hobbes, Locke and Rousseau and their thesis on Human Rights
Unit 4 The need for Human Rights and Human Rights Protection

Module 2 Human Rights and the World

Unit 1 Basic principles
Unit 2 The Generations of Human Rights
Unit 3 Regional Human Rights Protection
Unit 4 Human Rights Promotion and Protection by the United Nation

Module 3 Human Rights and Challenges

Unit 1 Controversies on the Universality of Human Rights
Unit 2 Human Rights and Refugees: International (Multilateral) Instruments on Refugees- Charters, Convention and Agreements
Unit 3 Human Rights and Population
Unit 4 International (Multilateral) Instruments on Population: Charters, Convention and Agreements

Module 4 Successes of Human Rights

Unit 1 Human rights and Development
Unit 2 Scope and Dimension of Human Rights and Development
Unit 3 Human Rights and Foreign policy
Unit 4 Human Right in Africa

Unit 5 Human Right in Nigeria

As you can observe, the course begins with the basics and expands into a more elaborate, complex and detailed form. All you need to do is to follow the instructions as provided in each unit. In addition, some self-assessment exercises have been provided with which you can test your progress with the text and determine if your study is fulfilling the stated objectives. Tutor-marked assignments have also been provided to aid your study. All these will assist you to be able to fully grasp the course in full.

TEXTBOOKS AND REFERENCES

At the end of each unit, you will find a list of relevant reference materials which you may yourself wish to consult as the need arises, even though I have made efforts to provide you with the most important information you need to pass this course. However, I would encourage you to cultivate the habit of consulting as many relevant materials as you are able to within the time available to you. In particular, be sure to consult whatever material you are advised to consult before attempting any exercise.

ASSESSMENT

Two types of assessment are involved in the course: the Self-Assessment Exercises (SAEs), and the Tutor-Marked Assignment (TMA) . Your answers to the SAEs are not meant to be submitted, but they are also important since they give you an opportunity to assess your own understanding of the course content. Tutor-Marked Assignments (TMAs) on the other hand are to be carefully answered and kept in your assignment file for submission and marking. This will count for 30% of your total score in the course.

TUTOR-MARKED ASSIGNMENT

At the end of each unit, you will find tutor-marked assignments. There is an average of two tutor-marked assignments per unit. This will allow you to engage the course as robustly as possible. You need to submit, at least, four assignments of which the three with the highest marks will be recorded as part of your total course grade. This will account for 10 percent each, making a total of 30 percent. When you complete your assignments, send them including your form to your tutor for formal assessment on or before the deadline.

Self-assessment exercises are also provided in each unit. The exercises should help you to evaluate your understanding of the material so far. These are not to be submitted. You will find all answers to these within the units they are intended for.

COURSE MARKING SCHEME

The following table sets out how the actual course marking is broken down.

ASSESSMENT	**MARKS**
Four assignments (the best four of all the assignments submitted for marking)	Four assignments, each marked out of 10%, but highest scoring three selected, thus totalling 30%
Final Examination	70% of overall course score
Total	**100% of course score**

COURSE OVERVIEW PRESENTATION SCHEME

Units	**Title of Work**	**Week Activity**	**Assignment (End-of-Unit)**
Course Guide			
Module 1	**INTRODUCTION/ BACKGROUND TO HUMAN RIGHTS**		
Unit 1	Introduction, Concepts, Theories and Sources of Human Rights	Week 1	Assignment 1
Unit 2	Basic Principles of Human Right		
Unit 3	The Philosophers: Hobbes, Locke and Rousseau and their thesis on Human Rights	Week 2	Assignment 1
Unit 4	The need for Human Rights and Human Rights protection	Week 3	Assignment 1
Module 2	**HUMAN RIGHTS AND THE WORLD**		
Unit 1	Basic principles	Week 4	Assignment 1
Unit 2	The Generations of Human Rights	Week 5	Assignment 1
Unit 3	Regional Human Rights Protection	Week 6	Assignment 1
Unit 4	Human Rights Promotion and	Week 7	Assignment

	Protection by the United Nation		1
Module 3	**HUMAN RIGHTS AND CHALLENGES**		
Unit 1	Controversies on the Universality of Human Rights	Week 8	Assignment 1
Unit 2	Human Rights and Refugees: International (Multilateral) Instruments on Refugees- Charters, Convention and Agreements	Week 9	Assignment 1
Unit 3	Human Rights and Population	Week 10	Assignment 1
Unit 4	International Instruments on Population: Charters, Convention and Agreements	Week 11	Assignment 1
Module 4	**SUCCESSES OF HUMAN RIGHTS**		
Unit 1	Human Rights and Development	Week 12	Assignment 1
Unit 2	Scope and Dimension of Human rights and Development	Week 13	Assignment 1
Unit 3	Human Rights and Foreign Policy	Week 14	Assignment 1
Unit 4	Human Rights in Africa	Week 15	Assignment 1
Unit 5	Human Rights in Nigeria	Week 16	Assignment 1
	Revision	Week 17	
	Examination	Week 18	
	Total	18 Weeks	

WHAT YOU WILL NEED FOR THE COURSE

This course builds on what exists on Human Rights. It will be helpful if you try to review what you studied earlier. Second, you may need to purchase one or two texts recommended as important for your mastery of the course content. You need quality time in a study friendly environment every week. If you are computer-literate (which ideally you should be), you should be

prepared to visit recommended websites. You should also cultivate the habit of visiting reputable physical libraries accessible to you.

TUTORS/TUTORIALS AND FACILITATORS

There are 15 hours of tutorials provided in support of the course. You will be notified of the dates and location of these tutorials, together with the name and phone number of your tutor as soon as you are allocated a tutorial group. Your tutor will mark and comment on your assignments, and keep a close watch on your progress. Be sure to send in your tutor marked assignments promptly, and feel free to contact your tutor in case of any difficulty with your self-assessment exercise, tutor-marked assignment or the grading of an assignment. In any case, you are advised to attend the tutorials regularly and punctually. Always take a list of such prepared questions to the tutorials and participate actively in the discussions.

FINAL EXAMINATION AND GRADING

The final examination of the course will be of two hours duration and have a value of 70% of the total course grade. The examination will consist of multiple choice and fill-in-the-gaps questions which will reflect the practice exercises and tutor-marked assignments you have previously encountered. All areas of the course will be assessed. It is important that you use adequate time to revise the entire course. You may find it useful to review your tutor-marked assignments before the examination. The final examination covers information from all aspects of the course.

HOW TO GET THE MOST FROM THIS COURSE

1. There are 16 units in this course. You are to spend one week in each unit. In distance learning, the study units replace the university lecture. This is one of the great advantages of distance learning; you can read and work through specially designed study materials at your own pace, and at a time and place that suites you best. Think of it as reading the lecture instead of listening to the lecturer. In the same way a lecturer might give you some reading to do. The study units tell you when to read and which are your text materials or recommended books. You are provided exercises to do at appropriate points, just as a lecturer might give you in a class exercise.

2. Each of the study units follows a common format. The first item is an introduction to the subject matter of the unit, and how a particular

unit is integrated with other units and the course as a whole. Next to this is a set of learning objectives. These objectives let you know what you should be able to do, by the time you have completed the unit. These learning objectives are meant to guide your study. The moment a unit is finished, you must go back and check whether you have achieved the objectives. If this is made a habit, then you will significantly improve your chance of passing the course.

3. The main body of the unit guides you through the required reading from other sources. This will usually be either from your reference or from a reading section.

4. The following is a practical strategy for working through the course. If you run into any trouble, telephone your tutor or visit the study centre nearest to you. Remember that your tutor's job is to help you. When you need assistance, do not hesitate to call and ask your tutor to provide it.

5. Read this course guide thoroughly. It is your first assignment.
6. Organise a study schedule – Design a 'Course Overview' to guide you through the course. Note the time you are expected to spend on each unit and how the assignments relate to the units.

7. Important information; e.g. details of your tutorials and the date of the first day of the semester is available at the study centre.
8. You need to gather all the information into one place, such as your diary or a wall calendar. Whatever method you choose to use, you should decide on and write in your own dates and schedule of work for each unit.

9. Once you have created your own study schedule, do everything to stay faithful to it.

10. The major reason that students fail is that they get behind in their coursework. If you get into difficulties with your schedule, please let your tutor or course coordinator know before it is too late for help.

11. Assemble the study materials. You will need your references for the unit you are studying at any point in time.

12. As you work through the unit, you will know what sources to consult for further information.

13. Visit your study centre whenever you need up-to-date information.

14. Well before the relevant online TMA due dates, visit your study centre for relevant information and updates. Keep in mind that you will learn a lot by doing the assignment carefully. They have been designed to help you meet the objectives of the course and, therefore, will help you pass the examination.

15. Review the objectives for each study unit to confirm that you have achieved them. If you feel unsure about any of the objectives, review the study materials or consult your tutor. When you are confident that you have achieved a unit's objectives, you can start on the next unit. Proceed unit by unit through the course and try to space your study so that you can keep yourself on schedule.

16. After completing the last unit, review the course and prepare yourself for the final examination. Check that you have achieved the unit objectives (listed at the beginning of each unit) and the course objectives (listed in the course guide).

SUMMARY

Human Rights provide you with somewhat general information on Human Rights. From its evolution to its metamorphosis, the challenges and the successes it has achieved. This is a theory course, but you will get the best out of it if you cultivate the habit of relating it to issues that bother on Human rights, be it National, Regional or Global.

List of Acronyms

UDHR - Universal Declaration of Human Rights
OHCHR - Office of the United Nations High Commissioner for Human Rights
IHRC - International Human Rights Covenants
ICCPR - International Covenant on Civil and Political Rights
ICESCR - International Covenant on Economic, Social and Cultural Rights
UN – United Nations
ICER- International Convention on the Elimination of All Forms of Racial Discrimination
CEDAW - Convention on the Elimination of All Forms of Discrimination against Women

CAT - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CRC- Convention on the Rights of the Child
ICRMW- The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
NHRIs - National human rights institutions
ICCI - International Coordinating Committee of National Institutions
RECs - Regional Economic Communities
SADCC - Southern Africa Development Coordinating Conference
EAC - East Africa Community
EU – European Union
OAU - Organisation of African Unity
AU – African Union
ECOWAS - Economic Community of West African States
OAS - Organisation of American States

ACHR - American Convention on Human Rights

NGO - Non Governmental Organisation
ECHR - European Court of Human Rights
OSCE- Organisation for Security and Cooperation in Europe
CoE - Council of Europe
ILO – International Labour Organisation
CSD - Commission on Sustainable Development
UNCRC - United Nations Convention on the Rights of the Child
VAW - Violence against women
WHO - World Health Organisation
ECCJ - ECOWAS Community Court of Justice
IDPs - Internally displaced persons
IRO - International Refugee Organisation
PGR - Population growth rate
ICPD - International Conference on Population and Development
RBA- Rights-Based Approach
HRBA- Human Right Based Approach
UNICEF - United Nations International Children's Education Fund
UNDP- United Nations Development Program
UNFPA - United Nations Population Fund
UNESCO - United Nations Education, Social and Cultural Organisation
FAO - Food and Agriculture Organisation
WHO - World Health Organisation
UNDG – United Nations Development Group
OECD-DAC - Organisation of Economic Cooperation and Developments/ Development Assistance Committee

WP-EFF - Working Party on Aid Effectiveness
MDGs - Millennium Development Goals
UNGA – United Nations General Assembly

MAIN COURSE

CONTENT **PAGE**

MODULE 1 INTRODUCTION/ BACKGROUND TO HUMAN RIGHTS

UNIT 1 INTRODUCTION, CONCEPTS, THEORIES AND SOURCES OF HUMAN RIGHTS

CONTENTS

1.0 INTRODUCTION

The basic goal of this module is to acquaint you with the background information on Human Rights, underscoring the basic concepts. In keeping with this aim, the module covers a wide range of issues designed in a manner that will aid your easy understanding. Issues addressed here Ranges from the Evolution of Human rights – the contributions of Magna Carta (1215) the English Bill of Rights (1689) the French Declaration of the Rights of Man and Citizen (1789) and the US Constitution and Bill of Rights (1791), to the basic principles of Human rights, the natural law/ rights with particular reference to the theorists/ philosophers - Thomas Hobbes, John Locke and Jean-Jacques Rousseau. The section closed with issues on human rights protection.

To deny an individual his human right is to show contempt for his humanity – Nelson Mandela (1918 cited in Federal Department of Foreign Affairs (FDFA, 2008: 19).

Many people regard the development of human rights law as one of the greatest accomplishments of the twentieth century. However, human rights did not begin with law or the United Nations. Throughout human history societies have developed systems of justice and propriety that sought the welfare of society as a whole. References to justice, fairness and humanity are common to all world religions: Judaism, Christianity, Islam, Buddhism and Confucianism. However, formal principles usually differ from common practise. Until the eighteenth century, no society, civilisation or culture, in either the Western or non- Western world, had a widely endorsed practise or vision of inalienable human rights (Compasito, ND 15). Documents asserting individual rights, such as the Magna Carta (1215), the English Bill of Rights (1689) the French Declaration on the Rights of Man and Citizen (1789) and the US Constitution and Bill of Right (1791) are the written precursors to many of today's human rights instruments (Compasito, ND 15). Human rights are underpinned by a set of common values that have been prevalent in societies, civilisations and religions throughout history. These values include fairness, respect, equality, dignity and autonomy. It is important to recognise that women, men and children experience different human rights abuses and is affected by them in different ways (Amnesty International Speak Free 2011).

The modern human rights era can be traced to struggles to end slavery, genocide, discrimination, and government oppression. After World War I, many scholars, activists, and some national leaders called for a declaration and accompanying international system—the League of Nations—to protect the most basic fundamental rights and human freedoms. Human rights have pervaded much of the political discourse since the Second World War. While the struggle for freedom from oppression and misery is probably as old as humanity itself, it was the massive affront to human dignity perpetrated during that War, and the need felt to prevent such horror in the future, which put the human being back at the centre and led to the codification at the international level of human rights and fundamental freedoms (Arbour and Johnsson, 2005: iii).

Taking the argument further, Arbour and Johnsson (2005: iii) clearly enunciated that:
Atrocities during World War II made clear that previous efforts to secure individual rights and curtail the power of governments to violate these rights were inadequate. The time was ripe for adoption of a globally

recognised instrument that enshrined these values. Thus was born the Universal Declaration of Human Rights (UDHR) as part of the emergence of the United Nations (UN). The twentieth century witnessed the crystallisation of the philosophy of Human Rights when the United Nations adopted the UN Charter, 1945, The Universal Declaration of Human Rights, 1948 and the International Covenants on Human Rights with further emphasis to protection of rights of Women, Abolition of Slavery, Racial Discrimination, Civil and Political Rights, Economic, Social and Cultural Rights and most importantly the Rights of children. Since 1948, human rights and fundamental freedoms have indeed been codified in hundreds of universal and regional, binding and non-binding instruments, touching almost every aspect of human life and covering a broad range of civil, political, economic, social and cultural rights. Thus, the codification of human rights has largely been completed.

The 'rights of man' were asserted and justified by reference to principles of liberty and equality. Though sometimes distorted, the concept can be traced through subsequent history in the emancipation movement and the abolition of the slave trade through to the developments of this century, including the founding of the United Nations and the formulation of international legal standards based on the principles set out in the Universal Declaration of Human Rights of 1948 (Darcy, 1997: 7)

SELF-ASSESSMENT EXERCISE

Trace briefly the evolution of Human Right.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- state the characteristics of Human Rights
- explain the evolution and landmarks in the development of Human Rights
- discuss the classifications of Human Rights
- describe the contributions of Magna Carta (1215) the English Bill of Rights (1689) the French Declaration of the Rights of Man and Citizen (1789) and the US Constitution and Bill of Right (1791) in the evolution and development of Human rights.

3.0 MAIN CONTENT

3.1 MAGNA CARTA (1215)

The Magna Carta, meaning the Great Charter, was written in 1215, following many disputes between the King and his Barons. Civil war in England between powerful barons and King John ended when the barons forced the king to sign a document called Magna Carta (InfoBase, 2006).

King John has been known throughout history as one of the worst kings to ever reign. He imprisoned his former wife, supposedly murdered his nephew, but most importantly, he imposed heavy taxes on Barons to pay for his expenses at war. And if the Barons refused to pay, then they were severely punished by the greedy King. The Barons demanded that the King stop the taxes and obey the law. In June 1215, the Barons and the King met at Runnymede, near Windsor Castle, and negotiations took place.

Everything that was decided at Runnymede, was written down in the document we know as Magna Carta. Containing 63 clauses, a lot of these dealt with rights and customs. The charter set out the feudal rights of the barons and stated that the king could continue to rule but must keep to the established laws and customs of the land. It was the first written document compelling an English king to act according to the rule of law (InfoBase, 2006).

Magna Carta was the first of a series of instruments in England that have a special constitutional status, including the Petition of Right (1628), the Habeas Corpus Act (1679), and the Bill of Rights (1689). (There is no defining document that can be termed the "Constitution" in England because the political system evolved over time, rather than being changed suddenly in an event such as a revolution) (State Bar News, 2015: 55).

Some of the more general rights and liberties in the charter have become part of the English and American constitutions and have influenced democratic government throughout the world (InfoBase, 2006).

Magna Carta has often been presented as the foundation of English liberties, guaranteeing the rights of English citizens against the arbitrary actions of those governing the country. Throughout its eight centuries of existence it has been cited in many political disputes and many rights and liberties have been attributed to it. Although Magna Carta was a thirteenth-century feudal charter created to resolve the immediate crisis of civil war, it has been perceived to be significant and relevant in many subsequent

periods of British history (Eele, 2013: 3). Magna Carta is the origin of many enduring constitutional principles: the rule of law, the right to a jury trial, the right to a speedy trial, freedom from unlawful imprisonment, protection from unlawful seizure of property, the theory of representative government, the principle of "no taxation without representation," and most importantly, the concept of fundamental law – a law that not even the sovereign can alter (State Bar News, 2015: 55). For about a century after 1215, and about a century before 1689, the *Magna Carta* played a critical role in the constitutional development of England (Spigelman, 2015: 1).

There are four original versions of the *Magna Carta*: 1215, 1216, 1217 and 1225 (Spigelman, 2015: 3).

Important Provisions of Magna Carta are Clause 12, 39 and 40 which still resonate today:

Clause 12: No aid to be levied without the permission of the Great Council [parliament]. Clause 39. No free man is to be arrested, or imprisoned, or deprived, or outlawed, or exiled, or in any other way ruined, nor will we go against him or send against him, except by the lawful judgment of his peers or by the law of the land. 40. We will not sell, or deny, or delay right or justice to anyone (Infobase, 2006, State Bar News, 2015: 54)

These clauses meant that the king could not levy taxes without parliamentary support. It recognized all freemen of the kingdom (king, barons, and commoners) as equals under the law. The right to a trial based on the law was a change from the old system of judgments and convictions based on the king's absolute authority. Magna Carta limited the king's power—he could no longer do just as he wished but must abide by laws based on Saxon, Norman, Church, and feudal customs. This was the beginning of limited monarchy in England, at a time when France was moving toward absolute monarchy (where the king has complete power) (Infobase, 2006). Later monarchs found it simpler to do business with a representative body than with a powerful group of aristocrats. This representative body came to be called Parliament and was later divided into an upper house of nobles and clergy (House of Lords) and a lower house of knights and burgesses (House of Commons). Eventually Parliament gained the power to pass laws (Infobase, 2006).

SELF-ASSESSMENT EXERCISE

To what extent is it right to say that the Magna Carta of 1215 sets the pace for the advancement of Human Rights?

3.2 The English Bill of Rights (1689)

The Bill of Rights, entitled "An Act Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown" (Bally, 2010). The Bill of Rights is an Act of the Parliament of England that deals with constitutional matters and lays out certain basic civil rights. Passed on 16 December 1689, it is a restatement in statutory form of the Declaration of Right presented by the Convention Parliament to William and Mary in February 1689, inviting them to become joint sovereigns of England. The Bill of Rights lays down limits on the powers of the monarch and sets out the rights of Parliament, including the requirement for regular parliaments, free elections, and freedom of speech in Parliament. It sets out certain rights of individuals including the prohibition of cruel and unusual punishment and re-established the liberty of Protestants to have arms for their defence within the rule of law. Furthermore, the Bill of Rights described and condemned several misdeeds of James II of England (Wikipedia, 2015).

The English Bill of Rights was enacted by the English Parliament and signed into law by King William III in 1689. It is one of the Fundamental documents of English constitutional law, and marks a fundamental milestone in the progression of English society from a nation of subjects under the plenary authority of a monarch to a nation of free citizens with inalienable rights. This process was a gradual evolution beginning with the Magna Carta in 1215 and advancing intermittently as subsequent monarchs were compelled to recognize limitations on their power (Wilkes & Kramer, 2003).

The creation of the English Bill of Rights was preceded by repeated abuses of power by King James II during his reign from 1685 to 1689. Among these abuses, he suspended acts of Parliament, collected taxes not authorised by law, and undermined the independence of the judiciary and the universities. He interfered in the outcome of elections and trials and refused to be bound by duly enacted laws (Wilkes & Kramer, 2003). Englishmen possessed certain civil and political rights that could not be taken away. The basic tenets of the Bill of Rights were:

- freedom from royal interference with the law
- freedom from taxation by royal prerogative, without agreement by Parliament
- freedom to petition the king
- freedom to bear arms for self-defence
- freedom to elect members of Parliament

- the freedom of speech in Parliament
- freedom from cruel and unusual punishments
- freedom from fines and forfeitures without trial (Bally, 2010)

Provisions of the Act

The Declaration of Right was in December 1689 enacted in an Act of Parliament, the Bill of Rights 1689 (Thatcher, 1907 cited in Wikipedia, 2015). The Act asserted "certain ancient rights and liberties" by declaring:

- laws should not be dispensed with or suspended without the consent of Parliament;
- no taxes should be levied without the authority of Parliament;
- the right to petition the monarch should be without fear of retribution;
- no standing army may be maintained during peacetime without the consent of Parliament;
- subjects who are Protestants may bear arms for their defence as permitted by law;
- the election of members of Parliament should be free;
- the freedom of speech and debates or proceedings in Parliament should not to be impeached or questioned in any court or place out of Parliament;
- excessive bail should not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted;
- jurors should be duly empanelled and returned and jurors in high treason trials should be freeholders;
- promises of fines or forfeitures before conviction are void;
- Parliaments should be held frequently (Williams, 1960 quoted in Wikipedia, 2015).

In the United Kingdom, the Bill of Rights is further accompanied by Magna Carta, the Petition of Right, the Habeas Corpus Act 1679 and the Parliament Acts 1911 and 1949 as some of the basic documents of the uncodified British constitution. The Bill of Rights 1689 was one of the inspirations for the United States Bill of Rights (Wikipedia, 2015). The Bill of Rights was a major step in the evolution of the British government towards parliamentary supremacy, and the curtailment of the rights of the monarchy. In doing so it largely settled the political and religious turmoil that had convulsed Scotland, England and Ireland in the 17th century. After the Magna Carta, the Bill of Rights is an important step in England's progress towards a constitutional monarchy (Bally, 2010).

SELF-ASSESSMENT EXERCISE

What is the English Bill of Rights of 1689 and how has it helped to sharpen the growth of Human right?

3.3 The French Declaration on the Rights of Man and Citizen (1789)

The Declaration of the Rights of Man asserts the authority of democratically passed laws, condemns any government based on absolutism and privilege, and proclaims the inalienable rights of individuals, liberty and political equality. The French National Assembly adopted the declaration on August 26, 1789. The Marquis de Lafayette wrote the declaration with help from his friend Thomas Jefferson, who was the American envoy to France. As a general during the American Revolution (US Embassy, 2011: 1) King Louis XVI signed the document on October 5, 1789, under pressure from the people who marched to Versailles. In 1791, the declaration became the preamble to the first constitution of the French Revolution, although the revolution later revoked certain principles and generated two additional declarations of the rights of man (in 1793 and 1795). The Lafayette text, inspired by the American Declaration of Independence of 1776, endured and is the foundation of other important French national documents, including the constitutions of 1852, 1946 and 1958 (US Embassy, 2011: 1).

The representatives of the French people, organized in National Assembly, considering that ignorance, forgetfulness, or contempt of the rights of man are the sole causes of public misfortunes and of the corruption of governments, have resolved to set forth in a solemn declaration the natural, inalienable, and sacred rights of man, in order that such declaration, continually before all members of the social body, may be a perpetual reminder of their rights and duties; in order that the acts of the legislative power and those of the executive power may constantly be compared with the aim of every political institution and may accordingly be more respected; in order that the demands of the citizens, founded henceforth upon simple and incontestable principles, may always be directed towards the maintenance of the Constitution and the welfare of all (French National Assembly, ND, US Embassy, 2011: 2).

Accordingly, the National Assembly recognizes and proclaims, in the presence and under the auspices of the Supreme Being, the following rights of man and citizen:

1. Men are born and remain free and equal in rights; social distinctions may be based only upon general usefulness.
2. The aim of every political association is the preservation of the natural and inalienable rights of man; these rights are liberty, property, security, and resistance to oppression.
3. The source of all sovereignty resides essentially in the nation; no group, no individual may exercise authority not emanating expressly there from.
4. Liberty consists of the power to do whatever is not injurious to others; thus the enjoyment of the natural rights of every man has for its limits only those that assure other members of society the enjoyment of those same rights; such limits may be determined only by law.
5. The law has the right to forbid only actions which are injurious to society. Whatever is not forbidden by law may not be prevented, and no one may be constrained to do what it does not prescribe.
6. Law is the expression of the general will; all citizens have the right to concur personally, or through their representatives, in its formation; it must be the same for all, whether it protects or punishes. All citizens, being equal before it, are equally admissible to all public offices, positions, and employments, according to their capacity, and without other distinction than that of virtues and talents.
7. No man may be accused, arrested, or detained except in the cases determined by law, and according to the forms prescribed thereby. Whoever solicit, expedite, or execute arbitrary orders, or have them executed, must be punished; but every citizen summoned or apprehended in pursuance of the law must obey immediately; he renders himself culpable by resistance.
8. The law is to establish only penalties that are absolutely and obviously necessary; and no one may be punished except by virtue of a law established and promulgated prior to the offence and legally applied.
9. Since every man is presumed innocent until declared guilty, if arrest be deemed indispensable, all unnecessary severity for securing the person of the accused must be severely repressed by law.
10. No one is to be disquieted because of his opinions, even religious, provided their manifestation does not disturb the public order established by law.
11. Free communication of ideas and opinions is one of the most precious of the rights of man. Consequently, every citizen may speak, write, and print freely, subject to responsibility for the abuse of such liberty in the cases determined by law.

12. The guarantee of the rights of man and citizen necessitates a public force; such a force, therefore, is instituted for the advantage of all and not for the particular benefit of those to whom it is entrusted.
13. For the maintenance of the public force and for the expenses of administration a common tax is indispensable; it must be assessed equally on all citizens in proportion to their means.
14. Citizens have the right to ascertain, by themselves or through their representatives, the necessity of the public tax, to consent to it freely, to supervise its use, and to determine its quota, assessment, payment, and duration.
15. Society has the right to require of every public agent an accounting of his administration.
16. Every society in which the guarantee of rights is not assured or the separation of powers not determined has no constitution at all.
17. Since property is a sacred and inviolable right, no one may be deprived thereof unless a legally established public necessity obviously requires it, and upon condition of a just and previous indemnity (French National Assembly, ND, US Embassy, 2011: 2-4).

The Declaration of the Rights of Man Addresses such fundamental concerns as free expression, rights of the accused, due process, and state taking of private property, it delineates for individuals a generous range of personal rights and freedoms (Johnson, 1990: 6). The concerns the Declaration of the Rights of Man addresses also are timeless, and the spirit of its provisions is as commanding today as when they were first set down on paper. The Declaration of Rights has served as a model for similar bills of rights contained in constitutions of other countries throughout Europe and around the world (Jellinek, ND cited in Johnson, 1990: 33)

SELF-ASSESSMENT EXERCISE

Outline the various aspects of the right of Man and citizen enshrined in the French Declaration on the Rights of Man and Citizen of 1789 that is still relevant to Human right provision today.

3.4 The US Constitution and Bill of Rights (1791)

Americans enjoy a wide range of rights, from the freedom to practice religions of their choice to the right to a trial by jury. Many of the rights and freedoms that we associate with being American are protected by the Bill of Rights, or the first ten amendments of the United States Constitution. When the Constitution was signed in 1787, it was missing a

Bill of Rights. But many people in the ratifying conventions that followed believed that the Constitution needed a section that preserved fundamental human rights. James Madison set out to write this section. Madison introduced his ideas at the First United States Congress in 1789, and, on December 15, 1791 (National Constitution Center, ND: 3). He led the new Congress in proposing amendments. He suggested 15 amendments, and the Congress accepted 12 of them to be submitted for ratification by the state legislatures under the amending process outlined in the Fifth Article of the Constitution. The necessary legislatures in three-fourths of the states had approved 10 of the 12 amendments. These 10 amendments are known as the *Bill of Rights* (U. S. Department of State, 2004: 14*).*

The Bill of Rights (Ratified in 1791)
First Amendment: Guarantees freedom of religion, speech, press, assembly, and petition.

Second Amendment: Guarantees the right to keep and bear arms, since a state requires a well equipped citizen army for its own security.

Third Amendment: Prohibits the lodging of soldiers in peacetime, without the dweller's consent.

Fourth Amendment: Prohibits unreasonable searches and seizures of persons or property.

Fifth Amendment: Guarantees the right to trial by jury, due process of law, and fair payment when private property is taken for public use, such as in eminent domain; prohibits compulsory self-incrimination and double jeopardy (trial for the same crime twice).

Sixth Amendment: Guarantees the accused in a criminal case the right to a speedy and public, trial by an impartial jury and with counsel; allows the accused to cross examine witnesses against him or her, and to solicit testimony from witnesses in his or her favour.

Seventh Amendment: Guarantees a trial by jury for the accused in a civil case involving $20 or more.

Eighth Amendment: Prohibits excessive bail and fines, as well as cruel and unusual punishments.

Ninth Amendment: Establishes that citizens have rights in addition to those specified in the Constitution.

Tenth Amendment: Establishes that those powers neither delegated to the national government nor denied to the states are reserved for the states (The Huntington, ND: 10 - 11).

The Bill of Rights was ratified by three-fourths of the states. Virginia became the eleventh state to ratify the 10 amendments that make up the Bill of Rights, which then became part of the United States Constitution. It had taken two years, and long debates, for these amendments to be adopted by the necessary three-fourths of the states (Baldwin, 2009: 3). More than 300 years later, the Bill of Rights still protects many of the rights that Americans hold most dear, including freedom of speech and of the press, the right to bear arms, and protection from unreasonable search and seizure (National Constitution Center, ND: 3). The modern bill of rights bears little resemblance to the original American renditions, either in their genesis in the Virginia Constitution of 1776 or their promulgation in the first Ten Amendments to the United States Constitution in 1791. There is universal concurrence that the concept of human rights evolved during the subsequent two centuries (Kurczewski and Sullivan, 2002: 251). By the end of the eighteenth century, model bills of rights were being circulated throughout the globe; that phenomenon continues today, when the rights contained in these eighteenth century statements of rights have been codified, amplified, and multiplied, both in domestic constitutions and in regional and international declarations and covenants (Kurczewski and Sullivan, 2002: 253). The Bill of Rights protects important individual liberties including freedom of religion, speech, assembly, and the rights of the accused in the criminal justice system (The Huntington, ND: 1).

SELF-ASSESSMENT EXERCISE

Discuss the US Constitution and Bill of Right of 1791 and the role it has played in Human Rights.

3.0 CONCLUSION

Human rights did not begin with law or the United Nations. Throughout human history societies have developed systems of justice and propriety that sought the welfare of society as a whole. References to justice, fairness and humanity are common to all world religions**.** Documents asserting individual rights, such as the Magna Carta (1215), the English Bill of Rights (1689) the French Declaration on the Rights of Man and Citizen (1789) and the US Constitution and Bill of Right (1791) are the written precursors to many of today's human rights instruments. Human rights are underpinned by a set of common values that have been prevalent in

societies, civilisations and religions throughout history. These values include fairness, respect, equality, dignity and autonomy.

4.0 SUMMARY

In this unit, documents that predate the existence of Human Right but are cardinal to development of human right have been examined. They are the Magna Carta (1215), the English Bill of Rights (1689) the French Declaration on the Rights of Man and Citizen (1789) and the US Constitution and Bill of Right (1791).

5.0 TUTOR-MARKED ASSIGNMENT

Highlight the significance of Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Right (1791) to the development of Human Right.

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UNIT 2 BASIC PRINCIPLES OF HUMAN RIGHTS

CONTENTS

1.0 INTRODUCTION

Human rights are what every human being needs to live a dignified and fulfilled life and to participate fully in the society. They are entitlements – you have them just because you are human (Amnesty International Speak Free 2011). Human rights are rights that every human being has by virtue of his or her human dignity. Human rights are the most fundamental rights of human beings. They define relationships between individuals and power structures, especially the State. Human rights delimit State power and, at the same time, require States to take positive measures ensuring an environment that enables all people to enjoy their human rights (Nowak, 2005: 1)

The Universal Declaration of Human Rights (UDHR), 1948, defines human rights as "rights derived from the inherent dignity of the human person." Human rights when they are guaranteed by a written constitution are known as "Fundamental Rights" because a written constitution is the fundamental law of the state. Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination (Peter 2008: v) As such, human rights are universal, interrelated, interdependent and indivisible and constitute the basis of the concepts of peace, security and development (UNODC). These civil, political, economic, social and cultural rights are all interrelated, interdependent and indivisible. They are expressed in treaties and other sources of law at the national, regional and international levels (Peter 2008: v).

From a legal standpoint, human rights can be defined as the sum of individual and collective rights recognised by sovereign States and enshrined in their constitutions and in international law. Governments and other duty bearers are under an obligation to respect, protect and fulfil human rights, which form the basis for legal entitlements and remedies in case of non-fulfilment. In fact, the possibility to press claims and demand redress differentiates human rights from the precepts of ethical or religious value systems (Nowak, 2005: 1). Human rights are claims we all have against everyone else; that is, they are not restricted to the relationship between state and individual. Human rights claims are universal in that, if they are valid at all, they are valid for everyone, since they are based on general assumptions about human needs and capacities (Darcy, 2007: 10).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain the meaning and definition of Human Rights
- discuss the basic principles of Human rights.

3.0 MAIN CONTENT

3.1 Examples of Human Rights

As adapted from (Nowak, 2005: 2), they are as follows:

- Right to life
- Freedom from torture and cruel, inhuman or degrading treatment or punishment
- Freedom from slavery, servitude and forced labour
- Right to liberty and security of person
- Right of detained persons to be treated with humanity
- Freedom of movement
- Right to a fair trial
- Prohibition of retroactive criminal laws
- Right to recognition as a person before the law
- Right to privacy
- Freedom of thought, conscience and religion
- Freedom of opinion and expression
- Prohibition of propaganda for war and of incitement to national, racial or religious hatred
- Freedom of assembly

- Freedom of association
- Right to marry and found a family
- Right to take part in the conduct of public affairs, vote, be elected and have access to public office
- Right to equality before the law and non-discrimination

In the area of economic, social and cultural rights

- Right to work
- Right to just and favourable conditions of work
- Right to form and join trade unions
- Right to social security
- Protection of the family
- Right to an adequate standard of living, including adequate food, clothing and housing
- Right to health
- Right to education

In the area of collective rights

- Right of peoples to:
- Self-determination
- Development
- Free use of their wealth and natural resources
- Peace
- A healthy environment
- Other collective rights:
- Rights of national, ethnic, religious and linguistic minorities
- Rights of indigenous peoples.

3.2 Concepts of Human Rights

The concept of human rights is very elusive and slippery. It has been conceptualised variously by different scholars. It means one thing for the natural law theorists and another for the positivists. Its conceptualisation is always coloured with the ideological orientation of an individual behind the conceptualisation. Hence, the history of human rights is replete with attempts to conceptualise its real meaning, leaving mankind with critical debates as what is meant by human rights. To start with, there is an imperative need to clarify the meaning of the word “right” (Agundu, 2009: 33). Rights are due entitlements that individuals lay claims to. They are mostly natural endowment.

In political parlance the concept of “human rights” includes all the freedoms the individual can claim on the sole basis of his or her humanity, rights which are safeguarded by society on ethical grounds. Human rights are rights that people are born with and to which everyone has equal entitlement regardless of gender, ethnic origin or beliefs. They are an essential principle in the organisation of modern society, and the very basis of peaceful cohabitation at the national and international levels, in the community and in the family (Federal Department of Foreign Affairs (FDFA) 2008, 3).

The concept of human rights is the result of a long and continuing process of development that has not yet reached its conclusion. It has its roots in the philosophy of the ancient Greeks and in the religious concept that “all men are equal in the eyes of God”. Together with the secular tradition of natural rights – human rights have their roots in human nature and the inherent dignity of humanity – the concept of human rights has progressively developed as an ethical standard through the ages (FDFA, 2008, 6). Human beings are born equal in dignity and rights. These are moral claims which are inalienable and inherent in all individuals by virtue of their humanity alone, irrespective of caste, colour, creed, and place of birth, sex, cultural difference or any other consideration. These claims are articulated and formulated in what is today known as human rights. Human rights are sometimes referred to as fundamental rights, basic rights, inherent rights, natural rights and birth rights.

Human rights are not just abstract values such as liberty, equality, and security. They are rights, entitlements that ground particular social practices to realize those values. Human rights claims express not mere aspirations, suggestions, requests, or laudable ideas but rights-based demands. And in contrast to other grounds on which goods, services, and opportunities might be demanded - for example, justice, utility, divine donation, contract, or beneficence - human rights are owed to every human being, as a human being (Donnelly, 2005: 2).

SELF-ASSESSMENT EXERCISE

What are Human Rights? Give few examples of human rights

3.3 Basic Principles of Human Rights

The basic principles of Human Rights are as follows.

Human rights are universal
"Human rights are foreign to no culture and native to all nations; they are universal." (Kofi Annan, Secretary-General of the United Nations, Address at the University of Tehran on Human Rights Day, 10 December 1997 cited in Nowak, 2005: 4).

Human rights are held by all persons equally, universally and forever. Human rights are universal: they are always the same for all human beings everywhere in the world. You do not have human rights because you are a citizen of any country but because you are a member of the human family. This means children have human rights as well as adults (Compasito, ND: 15). Human rights are universal because they are based on every human being's dignity, irrespective of race, colour, sex, ethnic or social origin, religion, language, nationality, age, sexual orientation, disability or any other distinguishing characteristic. Since they are accepted by all States and peoples, they apply equally and indiscriminately to every person and are the same for everyone everywhere (Nowak, 2005: 4).

Human rights are inalienable
Human rights are inalienable*:* you cannot lose these rights any more than you can cease to be a human being (Compasito, ND: 15). Human rights are inalienable insofar as no person may be divested of his or her Human rights save under clearly defined legal circumstances. For instance, a person's right to liberty may be restricted if he or she is found guilty of a crime by a court of law (Nowak, 2005: 4).

Human rights are indivisible and interdependent
Human rights are indivisible: no-one can take away a right because it is 'less important' or 'non-essential'. Human rights are interdependent*:* together human rights form a complementary framework. For example, your ability to participate in local decision making is directly affected by your right to express yourself, to associate with others, to get an education and even to obtain the necessities of life (Compasito, ND: 15). Human rights are indivisible and interdependent. Because each human right entails and depends on other human rights, violating one such right affects the exercise of other human rights. For example, the right to life presupposes respect for the right to food and to an adequate standard of living. The right to be elected to public office implies access to basic education. The defence of economic and social rights presupposes freedom of expression, of

assembly and of association. Accordingly, civil and political rights and economic, social and cultural rights are complementary and equally essential to the dignity and integrity of every person. Respect for all rights is a prerequisite to sustainable peace and development (Nowak, 2005: 4).

The principle of non-discrimination

Some of the worst human rights violations have resulted from discrimination against specific groups. The right to equality and the principle of non-discrimination, explicitly set out in international and regional human rights treaties, are therefore central to human rights. The right to equality obliges States to ensure observance of human rights without discrimination on any grounds, including sex, race, colour, language, religion, political or other opinion, national, ethnic or social origin, membership of a national minority, property, birth, age, disability, sexual orientation and social or other status. More often than not, the discriminatory criteria used by States and non-State actors to prevent specific groups from fully enjoying all or some human rights are based on such characteristics (Nowak, 2005: 4).

Human rights reflect basic human needs. They establish basic standards without which people cannot live in dignity. To violate someone's human rights is to treat that person as though he or she were not a human being. To advocate human rights is to demand that the human dignity of all people be respected (Compasito, ND: 15). In claiming these human rights, everyone also accepts responsibilities: to respect the rights of others and to protect and support people whose rights are abused or denied. Meeting these responsibilities means claiming solidarity with all other human beings. All people everywhere have the same human rights which no one can take away. This is the basis of freedom, justice and peace in the world (UDHR, 1948). All human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms (World Conference on Human Rights, Vienna 1993, paragraph 5).

The principles of equality, universality and non-discrimination do not preclude recognising that specific groups whose members need particular protection should enjoy special rights. This accounts for the numerous human rights instruments specifically designed to protect the rights of

groups with special needs, such as women, aliens, stateless persons, refugees, displaced persons, minorities, indigenous peoples, children, persons with disabilities, migrant workers and detainees. Group-specific human rights, however, are compatible with the principle of universality only if they are justified by special (objective) reasons, such as the group's vulnerability or a history of discrimination against it. Otherwise, special rights could amount to privileges equivalent to discrimination against other groups (Nowak, 2005: 4).

SELF-ASSESSMENT EXERCISE

What are the basic principles of human rights?

4.0 CONCLUSION

Human rights are what every human being needs to live a dignified and fulfilled life and to participate fully in the society. They are entitlements – you have them just because you are human. Human rights are rights that people are born with and to which everyone has equal entitlement regardless of gender, ethnic origin or beliefs. They are an essential principle in the organisation of modern society, and the very basis of peaceful cohabitation at the national and international levels, in the community and in the family. All human rights are universal, indivisible, interdependent, inter-related and non-discriminatory.

5.0 SUMMARY

This unit examines the introductory aspect of Human right, looking at the examples of human rights, the concept of Human rights and the basic principles of Human Rights.

6.0 TUTOR-MARKED ASSIGNMENT

1. What is human right?
2. Highlight the examples of human right
3. Mention and explain the basic principles of human rights.

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UNIT 3 THE PHILOSOPHERS: HOBBES, LOCKE AND ROUSSEAU AND THEIR THESES ON HUMAN RIGHTS (THE NATURAL RIGHTS THEORY)

CONTENTS

1.0 INTRODUCTION

The apparent universal recognition that all "Human beings are born free and equal in dignity and rights" and that human rights "derive from the inherent dignity of human person" is not only novel but also revolutionary in the history of the civilisation of mankind. Strictly speaking the period when such a concept became the vogue in Europe for example, dates not more than 200 years ago. It is the product of the enlightenment philosophy of the 17th and 18th Centuries. However, opinions are divided among scholars not only on the date of the concepts of Human rights but also on the basis of the concept (Maduagwu, 1987:122). Thus, while some hold that human rights are the product of the enlightenment philosophy and therefore dates from 17th and 18th Centuries, others hold that the idea of human rights is rooted in Judeo – Christian religion whose holy book, the Bible, teaches that Man is created in the image of God. It is from the Doctrine of "Imago Dei" (Maduagwu, 1987:122).

St. Augustine in his *City of God* notes that "He (God) did not intend that his creatures, which were made in His own image, should have dominion over anything but the irrational creation not man over man, but man over beasts (Augustine, 1958: 25 quoted in Agundu, 2009: 16). This was the period when the doctrine of Natural Law became strong and was linked to God or eternal law. Human rights are rights that God gave to man and are found in natural laws and they are also universal, objective and applicable to human beings as equal creatures of God (Agundu, 2009: 16). This later opinion continues, that the "dignity of Man" is deduced on which the Human rights

are founded. In fact, this popular opinion goes on in the present day philosophical and political discussion of human rights and human dignity are only forms of the secularised … concepts (Maduagwu, 1987:122).

Though the term 'human rights' had its basis in international law, which is not older than the World War II, the concept of an individual having certain basic, inalienable rights as against a sovereign State had its origin in the doctrines of natural law and natural rights. Thomas Hobbes (1588 – 1679), John Locke (1632 –1704) and Jean-Jacques Rousseau (1712 – 1778) are the three major thinkers who propounded and developed the Natural Rights (Law) theory. The idea of "natural rights" has a long history. In the English tradition, Thomas Hobbes and John Locke incorporated a belief in natural rights and natural law into their political philosophies (Habibi, 2007: 4).

"Human rights" as it is rendered now is fairly a new coinage surrogating what was formerly known as "the rights of man". This goes to show that earliest works in this regard did not use the term as it is rendered now. The concept of human rights is closely linked with the idea of natural law and natural rights theories. Human right has the same basis or ontological foundation as natural law (Agundu, 2009: 15). Natural law theory has been remarkably influential in the evolution of the human thought on the conception of justice for more than 2,500 years since its inception. In fact, as Friedmann aptly says, 'the history of natural law is a tale of the search of mankind for absolute justice and its failure' (Friedmann, 2003 cited in Nirmal, ND: 1). The debate on "natural rights" continued intermittently. Among the most significant political developments where attempts to ban the slave trade, the suffrage movement, the founding of the International Labour Organisation, and the founding of the League of Nations. On the theoretical level, there was a shift from the religiously based conception of "natural" rights, to the more secular notion of "human" rights (Habibi, 2007: 6). In the human right doctrine, the idea of natural law or natural right is encapsulated and humanized (Agundu, 2009: 15).

An historic watershed came in the aftermath of the Second World War, when the notion of human rights became a factor in public political debate.

With the Nuremberg War Crimes Tribunal, the founding of the United Nations, and the Universal Declaration of Human Rights (UDHR), the international community began a new era committed to promoting and expanding the ideals of human rights. Numerous governmental and Non-Governmental Organisations (NGOs) were created, and human rights took on a moral aura for judging nations and interpreting international humanitarian law (IHL) (Habibi, 2007: 6). The Campaign for the

promotion and the protection of human rights is above all carried out by the International Humanitarian Organisations usually known as " Non-Governmental Organisations" (NGOs). They are today over 500 of such Organisations recognised and encouraged by the United Nations (UN). Famous among the NGOs are Amnesty International, The Anti Apartheid Movement and the League of the Red Cross Societies (Maduagwu, 1987:122).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- discuss the evolution of human right as it relates to natural Law
- explain the roles played by the philosophers in the development of human right.

3.0 MAIN CONTENT

3.1 Thomas Hobbes (1588 – 1679)

Thomas Hobbes was born on April 5, 1588 in Malmesbury – a small city not far from Bristol, in the Southwestern Country of Waltshire (Schneider, 2004: 265). Thomas Hobbes lived in France and Italy where he met René Descartes and Galileo Galilei in 1636. Prior to the revolution in England he returned to Paris in 1640 where he stayed until 1651 when he returned under the rule of Cromwell. His philosophy was influenced by the civil and revolutionary wars he witnessed both in England and France (Brauch, ND: 2).

Hobbes defines rights purely in terms of action. A right, in Hobbes view, is "the liberty to do or to forbear (Leviathan XIV 2)." Liberty, in turn, he defines as "the absence of external impediments (Leviathan XIV 1)." In essence, then, a right is a freedom, the potential to act or not to act in a particular manner, as the case may be. Hobbes stresses that a right is not a capability; it does not furnish the ability to exercise the freedom. Having a right to travel, for example, does not entitle you to the means to travel.

Even when there are impediments, i.e. one does not have a particular right to something, they "cannot hinder one from using the power left him." A person can act in any manner he chooses to the extent his power allows him, but only when he has a right can he expect to act unimpeded (Hobbes, I651 quoted in MIT Open Course Ware, 2013: 2). It follows that a right is

something we are born with and hence compelled to protect and preserve. All rights stem from the fundamental human motivation to preserve their own lives (MIT Open Course Ware, 2013: 2). Hobbes states this as his first right of nature, "the liberty each man hath to use his own power, as he will himself, for the preservation of his own nature, that is to say, his own life" (Leviathan XIV 1).

The State of Nature is the conditions under which men lived prior to the formation of societies, which may be considered as an historical fact or a hypothetical claim (Steele, 1993: 4). Hobbes offered a dichotomy of the 'state of nature' (anarchy) where a war of all against all and where a strive to power prevailed with a state of the society where the sovereign's task was to control anarchy by maintaining the peace with force. In the 'state of nature', "civilised life would be impossible, and any life risky". This required "an agreement or contract, a concerted act by which they all renounced their rights of nature at the same time" whereby the task of the sovereign is to provide security to its citizens and to prevent war of all against all (Brauch, ND: 2). On the concept of self preservation, freedom and self consciousness, Hobbes constrains the Universal subjective right to preservation by subordinating it to the principle of non contradiction.

Assuming that what is "done fairly and Justly" is that which "does not violate right reason", self preservation can be conceived as the freedom – which everyone has – to use ones Natural faculties according to right reason" thus the first basic principles of natural right is that everyone may protect his life and limbs as well as he can (Schneider, 2004: 266).

Hobbes characterises self preservation as the inverse goal of human efforts. "but preserving one's existence is the primary good" for nature has seen to it that everyone wishes and strives for well being" (Schneider, 2004: 266).

It follows for Hobbes that the natural state is lawless; and thus, a place where "notions of the right and wrong, justice and injustice … have no place." It is a state where "each man has the right (or liberty) to do whatever he deems necessary to preserve himself". Nature is a state characterised by "every man against every man" (Hobbes, 1651), the very problem of "every man against every man", for Hobbes, exists precisely because natural man is conceived as containing an implicit and inherent liberty (Mawson, ND: 6).

For Hobbes the state of nature, a state within which every man pursues his own liberty, inevitably results in some peoples' liberties being overridden by others. Hobbes found a solution to this in the social contract. The social

contract, for Hobbes, becomes an "invention … to restrain by means of force the destructive and egotistic impulse of individuals" (Dyck, 1994: 4). Hobbes outlines a theory of cooperation based on contract, sovereignty and representation. The only reason for self-preservation was the will of those living in a commonwealth to survive. Therefore the power of all citizens had to be transferred to one single sovereign or a collective body that combines their will. A good relationship between the sovereign and his people was indispensable to demonstrate its power towards others. Hobbes believed that an external enemy who unites a society was a precondition for a lasting and stable community. The main features of a Hobbesian state have been: absolute sovereignty of a strong central authority and a sharp demarcation to the outside world (Brauch, ND: 2). For Hobbes the state of nature as a state of "every man against every man" implicitly required an unconditional form of government (Mawson, ND: 7).

3.2 John Locke (1632 –1704)

The idea of "natural rights" has a long history in the English tradition, Thomas Hobbes and John Locke incorporated a belief in natural rights and natural law into their political philosophies. Locke's claims had profound influence on two of the enlightenment's most important documents (Habibi, 2007: 4). Successive generations of Enlightenment thinkers found inspiration in Locke views on rights are not only more persuasive, but also remain as compelling today as they did in the 18th century (MIT OpenCourseware, 2013: 1).

John Locke's (1632- 1704) understanding of nature remains continuous with that of Hobbes. In His most celebrated work *Two Treatises of government* Locke describes the current condition of the civil government in the First Treatise, while in the Second Treatise; Locke demonstrated his justification for government and his ideals for its operation. Locke also in the Second Treatise, advocated that all men are equal and that each should be permitted to act as long as he doesn't harms another (Locke, 1980: 124).

In his *Second Treatise on Government* Locke also appeals to the "state of nature" as "a state of liberty." Locke conceives this state as pre political state which "all men are naturally in that state [nature] and remain so still by their own consents they make themselves members of some political society (Locke, 1690 cited in Mawson, ND: 8)." Locke displays an understanding of nature also as being prior to all social relations, as "a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man."

Indeed for Locke it is precisely in order that "the law of nature be observed" that "all men may be restrained from invading others rights, and from doing hurt to one another." For Locke, the very means of restraining the egoistical impulses of others was already provided for in Nature (Mawson, ND: 8). Locke advocated the framing of politics in accordance with nature, or in accordance with the liberty and sovereignty each individual possesses by virtue of nature. It is in this way that Locke is able, for the first time, to conceive a properly *liberal* politics – a politics that restricts the role of the sovereign at the centre to simply helping preserve and ensure those rights determined by nature – i.e. "liberty, life, and estate (Mawson, ND: 8)."

The source of legitimate political authority for Locke lies in certain natural rights. Consequently, respect of an independent, substantive idea of how people should be ruled is what distinguishes legitimate from merely de facto political authority. The social contract is a vehicle to secure this idea in the civil state (Peter, ND: 7). According to the Lockean approach, human rights are instruments to secure a basic set of moral rights in the global political realm – moral rights that limit the claims to authority that any political agent might make. The Lockean approach suggests that human rights are minimal standards that define how people should be ruled (Peter, ND: 7). For Locke, people within a commonwealth accept certain limitations on rights but ultimately preserve their fundamental rights. The commonwealth exists for the very reason of preserving these rights against "the injuries and attempts of other men (2nd Treatise, 87).

If somehow a government fails to protect these rights it becomes illegitimate and the people have the duty to overthrow that government. When transitioning from the state of nature to a commonwealth, therefore, men do not cede or relinquish their fundamental rights, only the right to arbitrate in their own cases (MIT OpenCourseWare, 2013: 6). Locke's view of a sovereign with limited powers, by contrast, is fully compatible with inalienable rights. In his account, the government exists not to hold the people "in awe," but to preserve their fundamental rights (MIT OpenCourseWare, 2013: 7). For John Locke, there are three fundamental human rights as provided by the natural law. Such rights are safeguarded by social contract. These rights are right to life, liberty and property. He considered them as natural to man. For him, these rights are the bases of the social contract and any attempt to violate these rights should be resisted by all means (Agundu, 2009: 17).

3.3 Jean-Jacques Rousseau (1712 – 1778)

Jean-Jacques Rousseau is another influential modern thinker on human rights. in his works "The Social Contract" Rousseau draws a fascinating picture of the state of nature and glorifies natural rights. Nevertheless, he postulates that these rights become irrelevant in civil society. They are therefore surrendered as the price of civil rights (Rousseau, 1968: 58).

SELF-ASSESSMENT EXERCISE

Explain the concept of Natural right and give a vivid account of the philosophical theory of Thomas Hobbes, John Locke and Jean-Jacques Rousseau.

4.0 CONCLUSION

The apparent universal recognition that all "Human beings are born free and equal in dignity and rights" and that human rights "derive from the inherent dignity of human person" is not only novel but also revolutionary in the history of the civilisation of mankind. The concept of an individual having certain basic, inalienable rights as against a sovereign State had its origin in the doctrines of natural law and natural rights. Thomas Hobbes (1588 – 1679), John Locke (1632 –1704) and Jean-Jacques Rousseau (1712 – 1778) are the three major thinkers who propounded and developed the Natural Rights theory. In the human right doctrine, the idea of natural law or natural right is encapsulated and humanised.

5.0 SUMMARY

This unit focused majorly on the development of human rights from the beginning with particular reference, the concept of Natural rights and its evolution, examining the roles played by Thomas Hobbes, John Locke and Jean-Jacques Rousseau. They are the principal thinks on Natural rights,

6.0 TUTOR-MARKED ASSIGNMENT

1. Give a brief overview of the historical evolution of human right.
2. What are natural rights?
3. Examine the postulations of Thomas Hobbes, John Locke and Jean-Jacques Rousseau.

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UNIT 4 THE NEED FOR HUMAN RIGHTS PROTECTION

CONTENTS

1.0 INTRODUCTION

Human rights are not just an abstract ideal. They imply concrete rights of the individual and concrete obligations of the state. They must be protected by all states and respected by all individuals and legal entities. The international community should not only observe rights guaranteed by various international conventions, primarily based on principles contained in the Universal Declaration of Human Rights; it should also provide states with assistance and guidance for forming their own national human rights protection systems (Schwarzenberg,2009 :7).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- state the need for human rights protection
- Examine the centrality of human rights protection in disaster management.

3.0 MAIN CONTENT

3.1 Human Rights Protection

At the dawn of the twenty-first century, and slightly over 60 years since adoption of the Universal Declaration of Human Rights (UDHR), all of the world's nations have committed themselves to human rights. At least they have on paper. Most have ratified several, or all, of the main international

human rights conventions. Yet bridging the gap from paper to practice continues to be the biggest challenge in the worldwide protection of human rights (Verhagen and Koenders, 2009: 5). The responsibility for protecting human rights lies with the state first and foremost. Specific responsibilities are vested in the state's agents – administration, legislature, courts, police, army, civil servants – all of whose activities have a bearing on the protection and fulfilment of human rights (Darcy, 1997: 16). The practical task of protecting and promoting human rights is primarily a national one, for which each state must assume responsibility. In the context of delivering human rights to individuals, national governments play a particularly important role (Steinerte and Wallace, 2009: 13).

All international human rights conventions include the right to life and the subsequent obligation of the state to protect life (Ferris, 2014: 1). In many countries, democracy, rule of law, a vital civil society and respect for human rights are not guaranteed (Schwarzenberg, 2009:7). All states have positive human rights obligations to protect human rights (OHCHR, ND cited in Ferris, 2014: 1). Universal human rights are often expressed and guaranteed by law in the form of treaties, customary international law, general principles and other sources of international law. Human rights law lays down *rights* (and sometimes duties) for individuals, and corresponding *obligations* - both positive and negative (that is, things *to do* and things *not to do*) – for governments in order to promote and protect the human rights and fundamental freedoms of individuals or groups (UNODC, 2012: 3). The range of human rights contained in international law cover almost every aspect of individual and community life, from civil and political rights, to economic, social, cultural and developmental rights. Some of these rights may be limited by states on grounds such as public safety, order, health, morals and the rights and freedoms of others, whilst other rights may not be limited under any circumstances (UNODC, 2012: 3).

The constitution is the highest law of the state. A strong constitution (or a constitutional bill of rights) enables civilians to claim their rights, receive compensation for violations and should guarantee the right to a fair trial.

All constitutions contain reference to the rights of citizens, yet the level of detail in which human rights guarantees are integrated and vary considerably. Constitutional reform, no matter on what scale, provides an opportunity to improve human rights aspects (Czech Presidency of the European Union, 2009: 102). Considerable progress has been made. New conventions have been drafted, more countries have banned the death penalty, newly created (international) courts are working against impunity and an increasing number of people around the world dedicate their lives to

promoting human rights. At the same time, in all regions of the world, in every country, human rights violations continue. It is time to focus all of our attention, from setting standards to implementation. It is time to create conditions within every society that guarantee accountability and the sustainable protection of human rights for all individuals (Verhagen and Koenders, 2009: 5). Protection activities relate to the whole spectrum of rights which guarantee physical, economic, social and political security (Darcy, 1997: 35).

According to Brookings-Bern Project on Internal Displacement (2008: 8), it was revealed that:

Protection encompasses all relevant guarantees—civil and political as well as economic, social and cultural rights—attributed to them by international human rights and, where applicable, international humanitarian law.

Although all human rights are fundamentally interrelated, for practical reasons, these rights can be divided into four groups, namely: (A) rights related to physical security and integrity (e.g. protection of the right to life and the right to be free from assault, rape, arbitrary detention, kidnapping, and threats concerning the above); (B) rights related to the basic necessities of life (e.g. the rights to food, drinking water, shelter, adequate clothing, adequate health services, and sanitation); (C) rights related to other economic, social and cultural protection needs (e.g. the rights to have access to education and work as well as to receive restitution or compensation for lost property); and (D) rights related to other civil and political protection needs (e.g. the rights to religious freedom and freedom of speech, personal documentation, political participation, access to courts, and freedom from discrimination). The first two groups of rights are most relevant during the emergency, life-saving phase. Only the full respect of all categories of rights, however, can ensure adequate protection of the human rights of those affected by natural disasters, including the displaced.

3.2 Human Rights Protection in Natural Disaster and Relief Management

The concept of human rights is increasingly invoked in the context of humanitarian emergencies; yet the moral and legal basis for the claims involved are often little understood (Darcy, 1997: i). In the past decade(s), there has been growing awareness of the relevance of international human rights law to prevention, response and recovery from disasters (Ferris, 2014: 1). “Natural disaster” refers to the consequences of events triggered by such natural hazards as earthquakes, volcanic eruptions, landslides,

tsunamis, floods and drought that overwhelm local response capacity. Such disasters seriously disrupt the functioning of a community or a society causing widespread human, material, economic or environmental losses, which exceed the ability of the affected community or society to cope by using its own resources (ISDR, 2007). It is the responsibility of governments to protect their population(s) from national/ natural disasters and central to that effort is reducing the risks of natural hazards. While governments cannot prevent cyclones or earthquakes, they can take measures to reduce the impact of these events on their people (Ferris, 2014: 3).

Human rights have to be the legal underpinning of all humanitarian work pertaining to natural disasters. There is no other legal framework to guide such activities, especially in areas where there is no armed conflict. If humanitarian assistance is not based on a human rights framework, there is a risk that the focus will be too narrow and the basic needs of the victims will not be integrated into a holistic planning process. There is also the risk that factors important for recovery and reconstruction will be overlooked (Brookings-Bern Project on Internal Displacement, 2008: 2). Furthermore, neglecting the human rights of those affected by natural disasters means overlooking the fact that such people do not only live in a legal vacuum, but also in countries without laws, rules and institutions that should protect their rights. International human rights principles should guide disaster risk management, including pre-disaster mitigation and preparedness measures, emergency relief and rehabilitation, and reconstruction efforts.

Those at risk need to be protected against violence and abuse. Those displaced need to be provided with protection and assistance and need to be able either to return in safety and in dignity to their original lands and property, or to be assisted to integrate locally in the area to which they have fled or to settle elsewhere in the country. Adherence to international human rights standards will help to ensure that the basic needs of victims or beneficiaries are met (Brookings-Bern Project on Internal Displacement, 2008: 2). Natural hazards are not disasters, in and of themselves. They become disasters depending on the elements of exposure, vulnerability and resilience, all factors that can be addressed by human (including state) action. A failure (by governments and others) to take reasonable preventive action to reduce exposure and vulnerability and to enhance resilience, as well as to provide effective mitigation, is therefore a human rights question (OHCHR, ND cited in Ferris, 2014: 1).

From a human rights perspective the right of the affected population to be protected against any kind of discrimination on the basis of race, colour,

sex, language, religion, political or other opinion, national or social origin, property, birth, age, disability or other status is of paramount importance.

Discrimination includes both intentional discrimination and policies or activities that have a discriminatory impact disadvantaged (Brookings-Bern Project on Internal Displacement, 2008: 8). Avoiding and preventing inequities and discrimination between people directly affected by the disaster and those only indirectly affected by it, as well as between different groups among the victims, is one of the most complex challenges in disaster relief. Internally displaced persons, women and girls, and other vulnerable groups such as persons with disabilities or HIV/AIDS, single parents, elderly persons without family support, or members of ethnic or religious minorities and indigenous peoples are at a particular risk of being disadvantaged (Brookings-Bern Project on Internal Displacement, 2008: 8).

The scale of displacement caused by disasters has only recently begun to be recognized and quantified. The Internal Displacement Monitoring Centre estimates that over 140 million people were displaced by sudden-onset disasters in the five year period from 2008-2012, with significant year-to-year variations. While there are similarities in needs between those displaced by disasters and those displaced by conflict, there seem to be different patterns of displacement (Ferris, 2014: 17). Hydro meteorological disasters, the largest cause of disaster-induced displacement, tend to displace people temporarily. Indeed, there is often an assumption that all disaster-induced displacement is temporary – that people can return to their homes once the flood waters recede or the rubble is cleared after an earthquake. In practice, however, displacement from disasters can be protracted and there is little evidence of what happens with those who are unable to return to their communities (Ferris, 2014: 17).

In addition, a high number of persons also become internally displaced when volcanic eruptions, tsunamis, floods, drought, landslides, or earthquakes destroy houses and shelter, forcing affected populations to leave their homes or places of residence. Experience has shown that the longer the displacement lasts, the greater the risk of human rights violations. In particular, discrimination and violations of economic, social and cultural rights tend to become more systemic over time (Brookings-Bern Project on Internal Displacement, 2008: 1). Often the human rights violations are not intended or planned. Sometimes they result from insufficient resources and capacities to prepare and respond to the consequences of the disasters. More often, they are the result of inappropriate policies, neglect or oversight. These violations could be avoided if both national and international actors took the relevant human

rights guarantees into account from the beginning (Brookings-Bern Project on Internal Displacement, 2008: 1).

Perhaps the most fundamental responsibility of states is to protect the lives of those living in their territories. When governments are unwilling or unable to protect people from the effects of natural disasters – or at least minimize the risks and damages of natural hazards – this is a human rights violation and governments need to be held accountable for their actions (Ferris, 2014: 21). In all cases States have an obligation to respect, protect and fulfil the rights of their citizens and of the people living in their territory. States have also an obligation: (a) to prevent violations of these rights from (re-)occurring; (b) to stop them while they are happening by making sure that its organs and authorities respect the rights concerned or protect victims against violations by third parties; and (c) to ensure reparation and full rehabilitation if violations have occurred. States therefore have an obligation to do everything within their power to prevent and/or mitigate the potential negative consequences that natural hazards may wreak (Brookings-Bern Project on Internal Displacement, 2008: 8).

Disaster risk reduction and prevention of displacement are human rights issues. Ensuring the impartial distribution of aid after a disaster is not only a basic humanitarian principle but also a basic human right. Developing and implementing equitable recovery/reconstruction programs is not only sound development practice but also a human rights issue (Ferris, 2014: 21).

Natural disasters are the consequences of events triggered by natural hazards that overwhelm local response capacity and seriously affect the social and economic development of a region. Traditionally, natural disasters have been seen as situations that create challenges and problems mainly of a humanitarian nature. However, increasingly, it has come to be recognised, that human rights protection also needs to be provided in these contexts (Brookings-Bern Project on Internal Displacement, 2008: 1). All too often the human rights of disaster victims are not sufficiently taken into account. Unequal access to assistance, discrimination in aid provision, enforced relocation, sexual and gender-based violence, loss of documentation, recruitment of children into fighting forces, unsafe or involuntary return or resettlement, and issues of property restitution are just some of the problems that are often encountered by those affected by the consequences of natural disasters (Brookings-Bern Project on Internal Displacement, 2008: 1). Protection is not limited to securing the survival and physical security of those affected by natural disasters (Brookings-Bern Project on Internal Displacement, 2008: 8).

SELF-ASSESSMENT EXERCISE

i. Discuss the reasons why human right protection is essential.
ii. How relevant is human right protection during disaster?

4.0 CONCLUSION

All states have positive human rights obligations to protect human right. Protection activities relate to the whole spectrum of rights which guarantee physical, economic, social and political security. It is the responsibility of governments to protect their population(s) from national disasters and central to that effort is reducing the risks of natural hazards. While governments cannot prevent cyclones or earthquakes, they can take measures to reduce the impact of these events on their people. neglecting the human rights of those affected by natural disasters means overlooking the fact that such people do not only live in a legal vacuum, but also in countries without laws, rules and institutions that should protect their rights. Most fundamental responsibility of states is to protect the lives of those living in their territories.

5.0 SUMMARY

The need for human right protection feature prominently in this unit, it has emphasised the human right protection and the significance of Human right protection in disaster management.

6.0 TUTOR-MARKED ASSIGNMENT

1. Examine briefly human right protection.
2. What is the significance of human right protection in disaster management?

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MODULE 2 HUMAN RIGHTS AND THE WORLD

UNIT 1 THE GENERATIONS OF HUMAN RIGHTS

CONTENTS

1.0 INTRODUCTION

This module takes you deeper into the course by tracing the generations of Human rights, looking at the United Nations and Human Rights i.e United Nations and Women Rights, United Nations and Children's rights, Human Rights and ILO, Human Rights and NGOs, Human Rights and Amnesty International. Also examined is the human rights protection across regions, considering mainly: European Regional Human Rights Mechanisms, The Americans, Asian Regional Human Rights Mechanisms and the African Charter on Human rights protection. It highlights also, Regional courts and Human Rights protection, Sub regional organisations and Human Rights Protection, specifically the ECOWAS, ECOWAS Community Court of Justice (ECCJ) and Human Right, finally National human rights institutions (NHRIs).

Talking about human rights isn't always easy. Understanding how they work in practice can be harder still. There's a lot of information about human rights available from many different sources – from the government and the law courts to the media and voluntary organisations – but such

information can often be contradictory, confusing, legalistic or simply not complete enough to give us what we need to make sense of what human rights are and how they work in action (Klug, 2008). Modern human rights scholars generally classify the contents of human rights in accordance with their evolution in modern international law. During the drafting of the Charter of the United Nations in 1945, the question of individual versus groups' rights polarised many members (Walters, 1995: 10).

Should economic, social, and cultural interests be accorded the status of rights on par with the traditional liberal values of free speech, religion, press, association, etc.? The drafters decided to draw up two separate covenants, one, dealing with political and civil rights, and the other treating economic, social and cultural rights. With regard to implementing machinery, states could ratify either or both conventions with no more of an obligation than a periodic report. The two main International Human Rights Covenants (IHRC)- the United Nations International Covenant on Civil and Political Rights (ICCPR) and the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR) -- were eventually opened for signature in 1966 and came into force in 1976 (Walters, 1995: 10).

Human rights cover all aspects of life. Their exercise enables women and men to shape and determine their own lives in liberty, equality and respect for human dignity. Human rights comprise civil and political rights, social, economic and cultural rights and the collective rights of peoples to self-determination, equality, development, peace and a clean environment (Nowak, 2005: 3). Common trends and challenges can be observed throughout the development of international and regional human rights regimes since 1945 (Fitzpatrick and O'Flaherty, ND: 9). There are three overarching types of human rights norms: civil-political, socio-economic, and collective-developmental (Vasek, 1977). The first two, which represent potential claims of individual persons against the state, are firmly accepted norms identified in international treaties and conventions. The final type, which represents potential claims of peoples and groups against the state, is the most debated and lacks both legal and political recognition (Globalization 101, ND: 6).

Distinctions have often been drawn between different categories, or generations', of human rights: civil and political rights (1st generation) (Fitzpatrick and O'Flaherty, ND: 9); Although it has been — and sometimes still is — argued that civil and political rights, also known as "first generation rights", are based on the concept of non-interference of the State in private affairs (Nowak, 2005:3); economic, social and cultural rights (2nd generation) (Fitzpatrick and O'Flaherty, ND: 9), whereas social,

economic and cultural — or "second generation" — rights require the State to take positive action, it is today widely acknowledged that, for human rights to become a reality, States and the international community must take steps to create the conditions and legal frameworks necessary for the exercise of human rights as a whole (Nowak, 2005:3); and rights to solidarity, e.g. the right to self-determination (3rd generation). A fourth generation of human rights is arguably emerging along with new phenomena (e.g. rights related to the Internet) (Fitzpatrick and O'Flaherty, ND: 9).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- identify the generations of Human rights
- differentiate between the various generations
- examine each of the generation.

3.0 MAIN CONTENT

3.1 First Generation: Civil and Political Rights

Human rights have developed in a dialectical process of various revolutions and 'generations'. It began with the bourgeois revolutions against absolutism, feudalism and the power of the Roman Catholic Church, legitimated by the ideas of the Enlightenment, rationalistic natural law, the social contract, constitutionalism and liberalism in Europe and North America. These culminated in the establishment of civil and political rights to life, liberty, property and democratic participation in the constitutions of the nation-states of the 18th and 19th centuries (Austrian Development Agency, 2010: 7). Together with the secular tradition of natural rights – human rights have their roots in human nature and the inherent dignity of humanity – the concept of human rights has progressively developed as an ethical standard through the ages (FDFA, ND: 6).

"First generation" human rights, as embodied in the ICCPR, stress civil and political rights over and against the encroachment of the state on individuals. Thus human rights were initially conceived more in negative ("freedoms from") than positive terms ("rights to"). States undertake to respect and insure right to life and personal integrity, due process of law and a humane penal system, freedom to travel within as well as outside one's country, freedom of expression, religion, and conscience, cultural and

linguistic rights for minority groups, the right to participate in government and free elections, the right to marry and found a family, the right to equality and freedom from discrimination (Walters, 1995: 11).

The seventeenth, eighteenth and nineteenth centuries contributed and strengthened the civil and political rights, which assured civil and political liberties. The Civil and Political Human Rights are collectively known as 'Liberty Oriented Human Rights' because they provide, protect and guarantee individual liberty to an individual against the State and its agencies. Liberty rights also referred to as Blue Rights are the First Generation of Human Rights (archive.mu.ac.in/myweb_test). Initially among the most important were the civil and political freedoms enshrined in national modern constitutions and catalogues of fundamental rights: the classical "human rights of the first generation**"**(FDFA, ND: 6).

Civil - political human rights include two subtypes: norms pertaining to physical and civil security (for example, no torture, slavery, inhumane treatment, arbitrary arrest; equality before the law) and norms pertaining to civil-political liberties or empowerments (for example, freedom of thought, conscience, and religion; freedom of assembly and voluntary association; political participation in one's society) (Globalization 101, ND: 6). First-generation, "civil-political" rights deal with liberty and participation in political life. They are strongly individualistic and negatively constructed to protect the individual from the state. These rights draw from those articulates in the United States Bill of Rights and the Declaration of the Rights of Man and Citizen in the 18th century. Civil-political rights have been legitimated and given status in international law by Articles 3 to 21 of the Universal Declaration of Human Rights and the 1966 International Covenant on Civil and Political Rights (Globalization 101, ND: 6).

3.2 Second Generation: Economic, Social and Cultural Rights

The Socialist view of human rights embodied in the constitutions of Socialist people's democracies of the 20th century was diametrically opposed to the civil - political human rights philosophy and stressed the real equality of all people as well as their economic, social and cultural rights to work, education, health, social security and an adequate standard of living. The cold war era was also dominated by an irreconcilable ideological controversy between these two 'generations' of so called negative and positive rights (Austrian Development Agency, 2010: 7). In the course of the 19th century (and the 20th century) the lamentable living and working conditions of broad sections of the population led to carefully

formulated demands for economic, social and cultural rights, known as the “second generation” of human rights (FDFA, ND: 6).

"Second generation" human rights, embodied in the ICESCR, emphasize economic, social, and cultural rights. Under this Covenant, states are to "take steps" "to the maximum of available resources," "with a view to achieving progressively the full realisation" of designated rights (Article 2,1) (Walters, 1995: 11). These include the right to work, to enjoy just and favourable conditions of work, to join trade unions, the right to social security, to protection for the family, for mothers and children, the right to be "free from hunger," to have an adequate standard of living, including food, clothing, and housing, and the continuous improvement of living conditions, the right to the highest attainable standards of physical and mental health, to education, and the right to partake in cultural life. It must be admitted that these rights remained essentially moribund for the first decade of the Covenant, and the U.N. is still at an earlier stage of establishing minimum standards for disadvantaged national societies with respect to nutrition, health, shelter, and other categories (Walters, 1995: 11).

The twentieth century contributed to the development and strengthening of economic, social and cultural rights and the rights of minorities as well. These rights aim at promotion of the economic and social security through economic and social upliftment of the weaker sections of the society. These rights are essential for dignity of personhood as well as for the full and free development of human personality in all possible directions. These rights ensure a minimum of economic welfare of the masses and their basic material needs, recognised by the society as essential to civilized living (archive.mu.ac.in/myweb_test). The economic, social and cultural rights, including the rights of the minorities are collectively known as the “Security Oriented Human Rights” because these rights collectively provide and guarantee the essential security in the life of an individual. In the absence of these rights, the very existence of human beings would be in danger. These are also known as the “Second Generation of Human Rights”. They are also referred to as Red Rights or also as positive rights. These rights along with the Civil and Political Rights were declared by the Universal Declaration of Human Rights and later were recognised by (1) the Covenant on Civil and Political Rights and (2) the Covenant on Economic, Social and Cultural Rights in December 1966 (archive.mu.ac.in/myweb test).

Socio-economic human rights similarly include two subtypes: norms pertaining to the provision of goods meeting social needs (for example,

nutrition, shelter, health care, education) and norms pertaining to the provision of goods meeting economic needs (for example, work and fair wages, an adequate living standard, a social security net) (Globalization 101, ND: 6). Second-generation, “socio-economic” human rights guarantee equal conditions and treatment. They are not rights directly possessed by individuals but constitute positive duties upon the government to respect and fulfil them. Socio-economic rights began to be recognized by government after World War II and, like first-generation rights, are embodied in Articles 22 to 27 of the Universal Declaration. They are also enumerated in the International Covenant on Economic, Social, and Cultural Rights (Globalization 101, ND: 6).

3.3 Third Generation: Rights to Solidarity (e.g. The right to self-determination)

"Third generation" human rights, the most controversial of international human rights, involve "solidarity" among developing states as a group, and among states in general. They are said to be collective rather than individual, and include "peoples' rights" to development, the right to a healthy environment, the right to peace, the right to the sharing of a common heritage, and humanitarian assistance. With the exception of the right to self-determination, which international law recognises as a collective human right of peoples, none of these rights exist in global treaty form nor are there established monitoring agencies to protect such rights (Walters, 1995: 11).

A ‘third generation’ of collective human rights took shape in the course of decolonisation in Africa and Asia, centred on the right of the peoples of the South to political and economic self-determination, equality and development (Austrian Development Agency, 2010: 7). In a third step the universal validity of these rights was established within the framework of the United Nations by the human rights instruments of International Law. In 1945 the United Nations was founded as the first universal political organisation to be devoted, in the words of the Charter of 26 June 1945, to the promotion of the fundamental rights of humankind and to the dignity and value of each human being (FDFA, ND: 6). States were no longer free to take the view that they could treat their own citizens as they liked by invoking the principles of sovereignty and non-interference in the internal affairs of other States. It took the totalitarian and criminal nature of National Socialism and the horrors of the Second World War to change people’s minds and convince them that limitations must be placed on State

sovereignty, both for the protection of individuals and of the community of nations (FDFA, ND: 7).

The right to development places the human person at the centre of the development process and recognises that the human being should be the main participant and beneficiary of development (Nowak, 2005: 3). The Development Oriented Human Rights are of a very recent origin in the late twentieth century. These rights enable an individual to participate in the process of all round development and include environmental rights that enable an individual to enjoy the absolutely free gifts of nature, namely, air, water, food and natural resources, free from pollution and contamination. These are known as the Third Generation of Human Rights or Green Rights. They are also called Solidarity Rights, because their implementation depends upon international cooperation. Solidarity rights are of special importance to developing countries, because these countries want the creation of an international order that will guarantee to them the right to development, the right to disaster relief assistance, the right to peace and the right to good government (archive.mu.ac.in/myweb_test).

For Nowak (2005:3) The 1986 UN Declaration on the Right to Development states that:

1. "… every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised", [and]
2. "The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources."
   Collective -developmental human rights also include two subtypes: the self determination of peoples (for example, to their political status and their economic, social, and cultural development) and certain special rights of ethnic and religious minorities (for example, to the enjoyment of their own cultures, languages, and religions) (Globalization 101, ND: 6).

3.4 Fourth Generation: Rights Related to the Internet

Man has been quite successful in conceptualising human rights, which can be divided into three different generations. The first generation deals mostly with negative rights (i.e. the right not to be subjected to coercion)

such as freedom of religion, free speech and the right to a fair trial. The second generation of human rights concerns positive rights (i.e. the right to be provided with something by others) such as the right to be employed, housing and health care. These rights were triggered by World War II and are encapsulated in the International Covenant on Civil, Economic and Social and Cultural Rights (ICESCR). The third generations of rights are mostly environmental rights (i.e. sustainable development) and they are generally still in the form of loosely binding laws, such as the Rio and Stockholm declaration (Al 'Afghani, 2006).

However, today civilisation is at the beginning of the knowledge age, an age where most populations are presumed not to work in agriculture or industry but in producing knowledge instead. Unlike agriculture, which is affected by climate or industry that pollutes the environment, this type of production is loosely interconnected with natural conditions as it only digests and produces one thing: information (Al 'Afghani, 2006). In this category are included the “rights related to genetic engineering”, rights which are on the doctrinal debate in what regards their recognition or prohibition of certain activities. We could put in the same category the rights *of future generations*, as well as rights that can not belong to an individual nor to social groups, including nations, they belong *only to humanity* as a whole (Cornescu, 2009: 7).

The rights of humanity would treat the common assets of the whole humanity. In the same category it is possible to insert rights deriving from exploration and exploitation of cosmic space. In the classic way it is considered that rights related to genetics can be classified as belonging to this last generation of rights, but even if fourth generation in itself is challenged as existence. In doing so, there are identified rights that ensure the inviolability of individual rights and unavailability of human body in terms of development of medical science, of genetics (Cornescu, 2009: 7). Living things are biologically nothing but genetic codes and -- through molecular manufacturing -- materials are physically nothing but a set of atomic structures. Thus, in the knowledge age, reality is no different than information itself (Al 'Afghani, 2006).

One of the main problems in the knowledge age is how information is being managed by the legal system. The nomenclature used by the legal system is "intellectual property"(IP) and the name itself bears a fallacy as it attributes information to property, whereas, the characters of information significantly differ from tangible properties or "goods" (Al 'Afghani, 2006). Studying the human genome, genetic manipulation, invitro-fertilisation, experiences with human embryos, euthanasia and eugenics are activities

that can generate complicated legal issues, ethical, moral and even religious, reason for which public opinion has led States to deal with regulation of these issues. Thus, each person has its right to life, dignity, personal identity, closely linked to its genetic type configuration, unique, right which it can transmit as genetic heritage to descendants, without being subject to genetic manipulation (Cornescu, 2009: 7).

The UNESCO Declaration on human genome from 1997:

1. Stipulates the compulsoriness of the international community to protect the human genome, the right to genetic identity of a person entitled to the banning of cloning;
2. stipulates the obligation of States to defend the person and its dignity, regardless of its genetic characteristics;
3. Stipulates limits of intervention on a person's genetic characteristics, subordinated to medical purposes, that concern human health;
4. The respect of human's ego from conception to real death.

SELF-ASSESSMENT EXERCISE

Mention and discuss the generations of human right.

4.0 CONCLUSION

The "generation" terminology harks back to language used during the cold war; nowadays, the emphasis is placed on the principles of universality, indivisibility and interdependence of all human rights (Nowak, 2005:3). Yet, the principles of universality, interdependence, and interrelatedness of all human rights are repeatedly emphasised in both international and regional contexts (Fitzpatrick and O'Flaherty, ND: 9). The right to development is based on the principle of the indivisibility and interdependence of all human rights and fundamental freedoms. Equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights (Nowak 2005:3).

5.0 SUMMARY

This unit has thoroughly examined the development of human rights and has classified them into generations as they evolved. Today we have clearly Identified four different generations with each unique in their desire to promote and protect certain rights.

6.0 TUTOR-MARKED ASSIGNMENT

1. How many generations of Human right do we have?
2. Make distinction between the various generations of Human rights.

7.0 REFERENCES/FURTHER READING

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UNIT 2 UNITED NATIONS AND HUMAN RIGHT

CONTENTS

1.0 INTRODUCTION

Talk about human rights and the assertions and denials of human rights is commonplace today. Human rights appear increasingly as a growing universal language that has developed with extraordinary vigour in the wake of World War II. Human rights tend to structure the space, both at national and international levels, within which human beings attempt to construct a moral order of universal and global scope (Walters, 1995:1).

Despite theoretical and philosophical debates concerning the existence, justification, and universality of human rights, the concrete violations of human beings through genocide, torture, disappearances, state policies of starvation, slavery, racism, mass rape, domestic violence against women, and discrimination-- cry out for care of and solidarity with, victims of oppression (Walters, 1995:1). The atrocities of World War II had a significant impact on the development of our modern understanding of human rights across the world. The newly established UN and Council of Europe made the protection of human rights fundamental to their work. The UN set up a Human Rights Commission which drafted and adopted a Universal Declaration of Human Rights in 1948, the foundation of UN human rights treaties and conventions (Equality and Human Right Commission, 2012: 10).

At the global level human rights are being developed in the framework of the United Nations. This intent was made clear from the beginning in the Charter of 1945 which speaks of "promoting and encouraging respect for

human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion" (Art. 1 Par. 3). The first step towards the achievement of this goal was the Universal Declaration of Human Rights (UDHR) of 1948. As well as a catalogue of classical rights to freedom and equality together with certain procedural guarantees (Arts. 8, 10 and 11) it contains a number of fundamental social rights such as the right to social security (Art. 22) and the right to work (Art. 23). Article 29 speaks of the individual's responsibilities towards the community in which he or she lives, i.e. evoking the existence of certain "fundamental duties".

Drawing largely from FDFA (ND: 8) it was revealed that, The UDHR has been successful as the formulation of a human rights programme to serve as a yardstick by which to measure future developments in international law. As a Declaration however it has no legal force. The practical implementation of this programme, i.e. the drafting of human rights instruments that are binding in international law, has proven to be an extremely difficult and time-consuming process. It was not until 1966 that the UN General Assembly adopted two binding agreements on human rights:

- The International Covenant on Civil and Political Rights (ICCPR).
- The International Covenant on Economic, Social and Cultural Rights (ICESCR). Both came into force in 1976.

Whereas the ICCPR contains all the classical civil rights and liberties of individuals, the ICESCR focuses mainly on social human rights. Although the original idea was to include both social and civil rights in a general convention, as a comprehensive codification of human rights, the East-West conflict resulted in their being split into two separate "covenants" as a compromise, one concentrating on social rights to please the States of the former Socialist bloc, and the other focusing on civil rights in line with the freedoms cherished by the Western Atlantic States (FDFA, ND: 8). In the UN System the "International Bill of Rights", consisting of three essential documents – the UDHR, the ICCPR and the ICESCR – has been complemented by additional international human rights conventions and protocols (FDFA, ND: 8).

The nine core international human rights treaties dealing with specific human rights are:

1. The International Covenant on Civil and Political Rights (ICCPR) (1976)

2. The International Covenant on Economic, Social and Cultural Rights (ICESCR) (1976)
3. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1969)
4. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1981)
5. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1987)
6. The Convention on the Rights of the Child (CRC) (1990)
7. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) (2003)
8. The International Convention on the Rights of Persons with Disabilities (2008)
9. The International Convention for the Protection of All Persons from Enforced Disappearance (United Nations, 2008)**.** Together they form the bedrock of international efforts to protect human rights (FDFA, ND: 8).

These treaties create obligations on States Parties to establish and enact laws promoting and protecting human rights at the national level.

Following the end of the Cold War, and in particular since the Vienna World Conference on Human Rights, ratifications have increased noticeably. Today 81 per cent of United Nations member states have ratified four or more of the seven most important UN human rights conventions. These and other treaties have helped to create the basis for a generalised understanding of human rights at the international level and a lasting, global awareness of fundamental human rights. Further adding to the global protection of human rights in the framework of the UN, there are a number of human rights conventions at the regional level (FDFA, ND: 8).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- highlight the roles of United Nations in promotion and protection of Human Rights
- identify the various mechanisms put in place to guarantee Human Rights protection
- discuss the role (s) of United Nations in women and children rights
- explain the nexus between human rights and ILO, NGOs, and Amnesty international.

3.0 MAIN CONTENT

3.1 United Nations and Women Rights

… By the time men began symbolically to order the universe and the relationship of humans to God in major explanatory systems, the subordination of women had become so completely accepted that it appeared `natural' both to men and women....On the unexamined assumption that this stereotype represented reality, institutions denied women equal rights and access to privileges, educational deprivation for women became justified and, given the sanctity of tradition and patriarchal dominance for millennia, appeared justified and natural" (Lerner, 1986: 211)**.** At least one in three women worldwide will experience physical or sexual violence in their lifetime, often perpetrated by an intimate partner. Violence against women and girls is a fundamental human rights issue and a central challenge to development, democracy and peace (WHO, 2013 quoted in Oxfam, 2014).

Right is a justifiable claim, on legal or moral grounds, to have or obtain something, or to act in a certain way (Shorter Oxford English Dictionary, 3rd Edition). It is useful to think of rights as valid claims or entitlements, which may be moral or legal, that one party makes against another (Darcy, 1997: 9). The term “women’s rights” encompasses many different areas, making it among the most difficult areas of law to define. Women’s rights are most often associated with reproductive rights, sexual and domestic violence, and employment discrimination. But women’s rights also includes immigration and refugee matters, child custody, criminal justice, health care, housing, social security and public benefits, civil rights, human rights, sports law and international law (Rosenfeld *et al*, 2007: 4). Rights to the removal of laws, practices, stereotypes and prejudices that impair women's well-being are rights that are relevant to women's health. Rights to have access to health through education and health services are also necessary.

When women experience disadvantage in contrast to other members of their families, communities or societies, they will be considered to suffer discrimination because they are women. When their families, communities or societies are disadvantaged in contrast to other families, communities or societies, women suffer compounded disadvantages related to such features as race, class and, for instance, geographical location (Cook, 1994: 3).

After the adoption of the Universal Declaration, the Commission on Human Rights began drafting two human rights treaties, the International Covenant on Civil and Political Rights and the International Covenant on Economic,

Social and Cultural Rights. Together with the Universal Declaration, these make up the International Bill of Human Rights. Both Covenants use the same wording to prohibit discrimination based on, inter alia, sex (art. 2), as well as to ensure the equal right of men and women to the enjoyment of all rights contained in them (art. 3) (UN, 2014: 5). The International Covenant on Civil and Political Rights guarantees, among other rights, the right to life, freedom from torture, freedom from slavery, the right to liberty and security of the person, rights relating to due process in criminal and legal proceedings, equality before the law, freedom of movement, freedom of thought, conscience and religion, freedom of association, rights relating to family life and children, rights relating to citizenship and political participation, and minority groups' rights to their culture, religion and language. The International Covenant on Economic, Social and Cultural Rights guarantees, for instance, the right to work, the right to form trade unions, rights relating to marriage, maternity and child protection, the right to an adequate standard of living, the right to health, the right to education, and rights relating to culture and science (UN, 2014: 5).

Violence against women (VAW) is the most widespread and persistent violation of human rights. According to a 2013 study from the World Health Organisation (WHO), at least one in three women worldwide (35 per cent) will experience physical and/or sexual violence during their lifetime, usually at the hands of someone they know. This means *more than one billion women* worldwide are affected by VAW. The WHO data found that an average of 25.5 per cent of women in Europe will be affected by violence and an average of 37.7 per cent of women in South East Asia will experience violence (Oxfam, 2014: 1). Women's rights in the health care sector may be violated by the lack of certain health services. They may be violated by lack of information about their health options, or simply a lack of appropriate technology to ease their burden inside and outside the home.

Today, the ranks of the poor are disproportionately filled with single women who are heads of households. These poor women, as well as young girls, resort to coping strategies which include recourse to low-paid jobs in environments fraught with known risks to their own health, and to that of future generations. Many of them are easy prey to the rising number of prostitution rings, and are victims of violence - rape and other physical abuse which is accentuated in periods of crisis such as ethnic conflict and war (Hammad, 1994: v).

In terms of modem human rights law, which guarantees equity between the sexes, many of the health disadvantages of women can be classified as injustices. Maternal death, for example, is only the end point in a series of

injustices that many women face. They eat last and eat least, are undereducated and overworked. They are recognized for their childbearing capacity with little attention paid to anything else they can do. Some 500 000 women die each year from preventable causes related to complications of pregnancy and childbirth. Yet many societies giving low status to women, accept maternal death as the natural order of things (Hammad, 1994: v).

Violence against women is ‘Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life (UN, 1993). Women living in poor countries or societies with a high level of inequality between women and men lack control over their lives. Poverty and women's unequal status in society are shaped by different forms of discrimination against women, including violence. Poverty and inequality reinforce patterns of violence. In turn, violence keeps women and girls trapped in poverty and marginalization. It limits women’s choices and their ability to access education, earn a living and participate in political and public life. It also robs women of control over their own bodies and sexuality, as well as being a major cause of ill-health, disability and death. The everyday consequences that result from violence against women and girls undermine development efforts and the building of strong democracies, just and peaceful societies (Oxfam, 2014: 4).

Unequal gendered power relations manifested in discriminatory laws, norms, standards and practices have been identified as one set of root causes for violence, poverty and inequality, and must be addressed to end the scourge of VAW. In everyday life, these factors are key to understanding the stereotypical attitudes and beliefs about gender roles and identities through which violence is perpetuated (Oxfam, 2014: 4). In its 2012 World Development Report, the World Bank identified VAW as a key issue that holds back societies from full development and growth for all, and gender equality for women (World Bank, 2012 cited in Oxfam, 2014: 4).

Attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations values. Women around the world nevertheless regularly suffer violations of their human rights throughout their lives, and realising women’s human rights has not always been a priority. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are denied equality so

as to develop appropriate strategies to eliminate such discrimination (UN, 2014: 2). The United Nations has a long history of addressing women's human rights and much progress has been made in securing women's rights across the world in recent decades. However, important gaps remain and women's realities are constantly changing, with new manifestations of discrimination against them regularly emerging. Some groups of women face additional forms of discrimination based on their age, ethnicity, nationality, religion, health status, marital status, education, disability and socioeconomic status, among other grounds (UN, 2014: 2).

After the adoption of the Universal Declaration, the Commission on Human Rights began drafting two human rights treaties, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Together with the Universal Declaration, these make up the International Bill of Human Rights. The provisions of the two Covenants, as well as other human rights treaties, are legally binding on the States that ratify or accede to them. States that ratify these treaties periodically report to bodies of experts, which issue recommendations on the steps required to meet the obligations laid out in the treaties. These treaty-monitoring bodies also provide authoritative interpretations of the treaties and, if States have agreed, they also consider individual complaints of alleged violations (UN, 2014: 4)

Similarly derived from the Universal Declaration are regional human rights conventions, including the European Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention) (6) and its Social Charter (7), the American Convention on Human Rights (the American Convention) (8) and its Additional Protocol in the Area of Economic, Social and Cultural Rights, and the African Charter on Human and Peoples' Rights (the African Charter) (9). These regional conventions all prohibit discrimination on grounds of sex and require respect for various rights related to the promotion and protection of health (Cook, 1994: 2).

The leading modern instrument on women's equal rights, derived from the Universal Declaration, is the Convention on the Elimination of All Forms of Discrimination against Women (the Women's Convention)(14), adopted in 1979. The Women's Convention is the definitive international legal instrument requiring respect for and observance of the human rights of women. This Convention is universal in reach and comprehensive in scope. The Convention is the first international treaty in which Member countries, known as States Parties, assume the legal duty to eliminate all forms of discrimination against women in civil, political, economic, social and cultural areas, including health care and family planning. As of 1 January

1994, 130 countries had become States Parties to this Convention (Cook, 1994: 2).

United Nations has played significant roles in advancing and advocating the rights of women. UN (2014: 11) summed the activities of United Nations thus:

Women's rights have been at the heart of a series of international conferences that have produced significant political commitments to women's human rights and equality. Starting in 1975, which was also International Women's Year, Mexico City hosted the World Conference on the International Women's Year, which resulted in the World Plan of Action and the designation of 1975–1985 as the United Nations Decade for Women. In 1980, another international conference on women was held in Copenhagen and the Convention on the Elimination of All Forms of Discrimination against Women was opened for signature. The third World Conference on Women was held in Nairobi, with the Committee on the Elimination of Discrimination against Women having begun its work in 1982. These three world conferences witnessed extraordinary activism on the part of women from around the world and laid the groundwork for the world conferences in the 1990s to address women's rights, including the Fourth World Conference on Women held in Beijing in 1995. In addition, the rights of women belonging to particular groups, such as older women, ethnic minority women or women with disabilities, have also been addressed in various other international policy documents such as the International Plans of Action on Ageing (Vienna, 1982 and Madrid, 2002), the Durban Declaration and Programme of Action (2001) and the World Programme of Action concerning Disabled Persons (1982).

International Conventions on the Protection of Women's Right

- Beijing Convention 1995
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984
- Convention for the Suppression of the Traffic in Person and of the Exploitation of the Prostitution & others 1950
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage 1962
- Convention on Elimination of All Forms of Discrimination against Women (CEDAW) 1979
- Convention on Political Rights of Women and the Neutrality of Married Women
- Convention on the Nationality of Married Women 1957

- Conventions on Abolition of Slavery and Trafficking in Women
- Conventions on Voluntary Marriage and Minimum ages for Marriage
- International Convention on Civil and Political Rights 1966
- International Covenant on Economic, Social and Cultural Covenant, 1966
- Protocol to Prevent, Suppress and Punish trafficking in person, especially Women and Children, Supplementing the United Nations Convention against Trans National Organized Crimes 2001
- United Nation's Charter
- Universal Declaration of Human Rights 1948 (Abdulraheem, 2010: 11)

Regional

- African Charter on Human and People's Right 1981
- Declaration on Gender Equality in Africa 2004 (Abdulraheem, 2010: 11)

3.2 United Nations and Children's Rights

Armed conflicts and increasingly frequent natural disasters continue to scar children's lives. Each year, natural and man-made disasters affect an estimated 231 million people worldwide (World watch Institute Report. 2007 cited in The International Save the Children Alliance, 2007: 9), causing countless injuries and deaths and costing billions of dollars. The majority of the affected people are usually children (The International Save the Children Alliance, 2007: 9). Almost half of all forcibly displaced persons globally are children – over 12 million girls and boys (United Nations High Commissioner for refugees (UNHCR), 2006: 7). There are currently 250-300 million children affected by humanitarian crises and disasters globally (International Save the Children Alliance, 2006: 8.); increasingly, they come from or stay in urban areas. Of the estimated 24.5 million conflict-related internally displaced people (IDPs) in the world, about 50% are children (The International Save the Children Alliance, 2007: 9).

Many refugee children spend their entire childhood in displacement, uncertain about their future. Children – whether refugees, internally displaced or stateless – are at greater risk than adults of abuse, neglect, violence, exploitation, trafficking or forced recruitment into armed groups. They may experience and witness disturbing events or be separated from their family. At the same time, family and other social support networks

may be weakened and education may be disrupted. These experiences can have a profound effect on children – from infancy and childhood through to adolescence. During emergencies and in displacement, girls face particular gender-related protection risks (United Nations High Commissioner for refugees (UNHCR), 2006: 7). Children are also highly resilient and find ways to cope and move forward in the face of hardship and suffering. They draw strength from their families and find joy in friendships. By learning in school, playing sports, and having the creative space to explore their talents and use some of their skills, children can be active members of their community (UNHCR), 2006: 7).

Forced displacement exacerbates children's exposure to neglect, exploitation and sexual and other forms of violence and abuse. Children are at particular risk and require special attention due to their dependence on adults to survive, their vulnerability to physical and psychological trauma, and their needs that must be met to ensure normal growth and development (UNHCR's Age, Gender and Diversity Policy, 2011). Whether internally displaced or a refugee, whether as a result of war, civil unrest or natural disaster, whether in an urban, rural or semi-rural setting, a child's vulnerability to abuse during a crisis is very high. Families suffer multiple and severe disruptions: losing their homes and livelihoods, and often also losing their autonomy and dignity when trying to obtain humanitarian relief and protection. With an uncertain future, repeated emotional stress and only minimal access to education, children are at risk of sexual abuse and exploitation, physical harm, separation from their families, psychosocial distress, gender-based violence, economic exploitation, recruitment into armed groups, and other forms of harm (International Save the Children Alliance, 2007: 9).

Over 200 million children between 5 and 14 years of age are working world-wide. This figure represents one- fifth of the total population of girls and boys in this age group. About 111 million children are in what has been termed as "hazardous work" which refers to forms of labour which are likely to have adverse effects on the child's safety, health, and moral development. Nearly 10 million of these children are engaged in some form of slave labour, armed conflict, prostitution or pornography, or other illicit activities. Some observers believe that these figures understate the real magnitude of child labour. The implications of this situation are significant, complex, and multidimensional (Betcherman et al, 2004: 1).

The term 'child protection' is used in different ways by different organisations in different situations. The term will mean protection from violence, abuse and exploitation. In its simplest form, child protection

addresses every child's right not to be subjected to harm. It complements other rights that, inter alia, ensure that children receive that which they need in order to survive, develop and thrive (UNICEF and Inter Parliamentary Union, 2004: 8). Child protection covers a wide range of important, diverse and urgent issues. Many, such as child prostitution, are very closely linked to economic factors. Others, such as violence in the home or in schools, may relate more closely to poverty, social values, norms and traditions. Often criminality is involved, for example, with regard to child trafficking. Even technological advancement has its protection aspects, as has been seen with the growth in child pornography (UNICEF and Inter Parliamentary Union, 2004: 8).

Expressing the need for, as well as the danger of withholding child protection UNICEF and Inter Parliamentary Union (2004: 10) affirms that:
Child protection is a special concern in situations of emergency and humanitarian crisis. Many of the defining features of emergencies – displacement, lack of humanitarian access, breakdown in family and social structures, erosion of traditional value systems, a culture of violence, weak governance, absence of accountability and lack of access to basic social services – create serious child protection problems. Emergencies may result in large numbers of children becoming orphaned, displaced or separated from their families. Children may become refugees or be internally displaced; abducted or forced to work for armed groups; disabled as a result of combat, landmines and unexploded ordnance; sexually exploited during and after conflict; or trafficked for military purposes. They may become soldiers, or be witnesses to war crimes and come before justice mechanisms. Armed conflict and periods of repression increase the risk that children will be tortured. For money or protection, children may turn to 'survival sex', which is usually unprotected and carries a high risk of transmission of disease, including HIV/AIDS.

Children's rights are enshrined in international law, including the United Nations Convention on the Rights of the Child (UNCRC) (UN Convention on the Rights of the Child, 1990). International consensus developed on the need for a new instrument that would explicitly lay out the specific and special rights of children. In 1989, the United Nations Convention on the Rights of the Child was adopted by the General Assembly. It rapidly became the most widely ratified human rights treaty in history, enjoying almost universal ratification (UNICEF and Inter Parliamentary Union, 2004: 10). The Convention on the Rights of the Child advances international standards on children's rights in a number of ways. It elaborates and makes legally binding many of the rights of children laid out in previous instruments. It contains new provisions relating to children, for

example, with regard to rights to participation, and the principle that in all decisions concerning the child, the child's best interests must come first. It also created for the first time an international body responsible for overseeing respect for the rights of the child, the Committee on the Rights of the Child (UNICEF and Inter Parliamentary Union, 2004: 10).

Children's right to be heard and to be taken seriously is a crucial and also visionary provision of the Convention on the Rights of the Child. It has helped to see childhood through a new lens and gain a renewed understanding of citizenship and democracy (Willow, 2010: vii). Child protection work aims to prevent, respond to, and resolve the abuse, neglect, exploitation and violence experienced by children in all settings (International Save the Children Alliance, 2007: 7). Recognition of the child's right to protection is not limited to the Convention on the Rights of the Child. There are a number of other instruments, both those of the United Nations and those of other international and regional bodies, which also lay out these rights. These instruments include:

- The African Charter on the Rights and Welfare of the Child of the Organisation for African Unity (now African Union) of 1990
- The Geneva Conventions on International Humanitarian Law (1949) and their Additional Protocols (1977)
- International Labour Convention No. 138 (1973), which states that, in general, persons under the age of 18 may not be employed in jobs that are dangerous to their health or development, and International Labour Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children to the UN Convention on Transnational Organized Crime (UNICEF and Inter Parliamentary Union, 2004: 10).

3.3 Human Rights and ILO

*"Everyone has the right to life, to work… to just and favourable conditions of work… Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family… " (*From the Universal Declaration on Human Rights, UN, 1948 Article 23: 1)

The concept of economic rights like political, social and cultural has deep roots in history; but the articulation of these demands as rights is primarily a modern phenomenon. Rebellions, riots and other actions by various

workers as individuals or in groups against exploitation, taxation and other forms of oppression as well as during famines and political crises are part of global history (Apsel, ND: 2). Part of the history of workers' oppression has been a range of violations of "bodily integrity." Lack of decent working conditions resulted in serious health issues such as tuberculosis, asbestosis and increased mortality rates. Long hours of work under hazardous conditions led to workers living with debilitating and painful health conditions world-wide. The repercussions of such exploitation have long-lasting physical and mental effects on people's lives and those of their families and communities (Apsel, ND: 2). "The protection of the worker against sickness, disease and injury arising out of his employment" is not only a labour right but a fundamental human right and is one of the main objectives of the ILO as stated in its Constitution. Therefore, the ILO contribution to the recognition of human rights in the world of work is clearly reflected in the fundamental principles of its labour standards (ILO, 2009: 5). Our workplaces should protect us from harm. If we work in risky environments, then we go to work every day with a high chance of coming home injured, sick - or not coming back home at all (ILO, 2009: 5)

Giving us a background to the need for Human right protection at work place Apsel (ND: 2) was apt in his analysis. As he poignantly asserts that:

The 1911 Triangle Fire (the loss of 146 employees of the Triangle Shirtwaist Co. who were locked in and perished in a factory fire) and its aftermath are part of the long struggle for human beings to achieve economic rights including the right to live and work in dignity. This history is part of the movement to transform the ideals of international human rights into reality for people in their everyday lives. In many respects, human rights run counter to the grain of history in which power and privilege have been based on birth, class, race, property, gender and other markers. The United States and Great Britain as the centres of capitalist development and industrialisation have been major sites of strikes, unrest, labour organising and a series of work accidents and killings in which workers lost their lives. Hence, workers who organised for fair wages and decent working conditions and those who gave up their lives, including victims of the Triangle Fire, are part of the movement to resist injustice and oppression and work toward human solidarity and economic rights.

In this sense, when it comes to workers' health, work can be a positive experience or a very negative one. When we work, we become financially independent: we can reward ourselves with satisfying our basic needs and to indulge our desires. In turn, the whole give-and-take process interacts with our social aspirations and has repercussions on our psychological and

physical health - our well-being. This workplace which takes us away from our homes for a major part of everyday should then respect our wellbeing. Being productive and active for decades of our lives should allow us to preserve our health long after we enter our retirement years (ILO, 2009: 5).

Following the devastation of World War I, a number of international organisations such as the League of Nations and the Hague Peace Palace were founded to work toward peace and to prevent conflicts. The importance of providing economic justice was understood as a crucial part of this international movement to secure peace and stability. Article 23 of the League of Nations Covenant included the “fair and humane conditions of labour for men, women, and children” and envisioned the establishment of international organisations to realize this objective. This goal was the focus of the International Labour Organisation (ILO) established in 1919 in Paris to promote fair and humane conditions for workers through legal mechanisms and monitoring procedures (Apsel, ND: 2).

The ILO was established in 1919 by the Treaty of Versailles. It was the only element of the League of Nations to survive the Second World War, and it became the first specialized agency of the United Nations system in 1945. The tripartite structure of the ILO (governments, employers, and workers) is unique among intergovernmental organisations, and the ILO is the only organisation in which governments do not have all the votes (UN, ND: 1). The ILO is composed of three organs: the *General Conference* of representatives of member states (the "International Labour Conference"); the *Governing Body*; and the *International Labour Office*. The Conference and the Governing Body are composed of half of government representatives and half of representatives of employers and workers of member States. The presence and voting power of these non-governmental elements give the ILO a unique perspective on the problems before it and offer possibilities for dealing with practical problems facing ILO members (UN, ND: 1).

The ILO’s vision was emerged from “the premise that universal, lasting peace can be established only if it is based upon decent treatment of working people”. The ILO charter of general legal principles included rights of association and collective bargaining, equal rights for women, abolition of child labour and limits on working hours (Apsel, ND: 2). At least 53 million people, the vast majority of which are women and girls, are employed in private homes as domestic workers (ILO, 2013: 19). They carry out essential tasks for the household, including cooking, cleaning, laundry, shopping, and caring for children and elderly members of the employer’s family (Human Rights Watch, 2012: 2).

Domestic workers contribute substantially to the global economy, constituting 7.5 percent of women's total wage employment worldwide (ILO, 2013: 2). Migrant domestic workers provide billions of dollars in remittances for their countries of origin. Domestic work is not only an important livelihood for workers, but also enables employers to better their standard of living by maintaining employment outside the home (Human Rights Watch, 2012: 2). Despite their important contributions, discrimination, gaps in legal protections, and the hidden nature of their work place, domestic workers are at risk of a wide range of abuses and labour exploitation. Around the globe, domestic workers endure excessive hours of work with no rest, non-payment of wages, forced confinement, physical and sexual abuse, forced labour, and trafficking. Children—who make up nearly 30 percent of domestic workers—and migrant domestic workers are often the most vulnerable. In many countries, domestic workers are excluded from national labour laws, leaving them no legal right to limits on their hours of work, a minimum wage, or adequate rest. A 2009 survey of 70 countries by the International Labour Organisation (ILO) found that 40 percent did not guarantee domestic workers a weekly day of rest, and half did not impose a limit on normal hours of work for domestic workers (ILO, 2009: 50). Without legal protection, domestic workers are at the mercy of their employers (Human Rights Watch, 2012: 2).

An impressive array of laws on both the national, regional and international level have been drafted and passed to protect workers that articulate a range of rights from free association, the right to strike to healthy work conditions. Yet, the struggle to concretely realize these rights goes on (Apsel, ND: 2). "The protection of the worker against sickness, disease and injury arising out of his employment" is not only a labour right but a fundamental human right and is one of the main objectives of the ILO as stated in its Constitution. Therefore, the ILO contribution to the recognition of human rights in the world of work is clearly reflected in the fundamental principles of its labour standards (ILO, 2009: 5).

On June 16, 2011, ILO members – governments, trade unions, and employers' associations – voted overwhelmingly to adopt the ILO Convention Concerning Decent Work for Domestic Workers (Domestic Workers Convention, No. 189). This groundbreaking treaty establishes the first global standards for domestic workers. Under the Convention, domestic workers are entitled to the same basic rights as those available to other workers in their country, including weekly days off, limits to hours of work, minimum wage coverage, overtime compensation, social security, and clear information on the terms and conditions of employment (Human Rights Watch, 2012: 3). The new standards oblige governments that ratify

to protect domestic workers from violence and abuse, to regulate private employment agencies that recruit and employ domestic workers, and to prevent child labour in domestic work. Since the Convention's adoption in 2011, dozens of countries have taken action to strengthen protections for domestic workers. Several countries from Latin America, Asia, Africa, and Europe have already ratified the Convention, while others have pledged to do so. Many others are undertaking legislative reform to bring their laws into compliance with the new standards. Already, millions of domestic workers have benefited from these actions (Human Rights Watch, 2012: 3).

The Domestic Workers Convention (C 189) requires governments to provide domestic workers with the same basic labour rights as those available to other workers, to protect domestic workers from violence and abuse, to regulate private employment agencies that recruit and employ domestic workers, and to prevent child labour in domestic work (Human Rights Watch, 2012: 3).

The following is a brief summary of its provisions (Human Rights Watch, 2012: 3).

Article 3: domestic workers should enjoy the ILO fundamental principles and rights at work:

1) freedom of association;
2) elimination of forced labour;
3) abolition of child labour;
4) elimination of discrimination

Article 4: protections for children, including a minimum age and ensuring that domestic work by children above that age does not interfere with their education

Article 5: protection from abuse, harassment, and violence

Article 6: fair terms of employment, decent working conditions, and decent living conditions if living at the workplace

Article7: information about terms and conditions of employment, preferably in written contracts

Article 8: protections for migrants, including a written job offer before migrating and a contract enforceable in the country of employment. Countries should cooperate to protect them and specify terms of repatriation

Article 9: prohibits confinement in the household during rest periods or leave, and ensures domestic workers can keep their passports/identity documents

Article 10: equal treatment with other workers with regards to hours of work, overtime pay, and rest periods, taking into account the special characteristics of domestic work;

Article 11: minimum wage coverage where it exists

Article 12: payment at least once a month and a limited proportion of "payments in kind"

Article 13: right to a safe and healthy working environment (can be applied progressively)

Article 14: equal treatment with regard to social security, including maternity protection (can be applied progressively)

Article 15: oversight of recruitment agencies including investigation of complaints, establishing obligations of agencies, penalties for violations, promoting bilateral or multilateral cooperation agreements, and ensuring recruitment fees are not deducted from domestic workers' salaries

Article 16: effective access to courts

Article 17: effective and accessible complaints mechanisms, measures for labour inspections and penalties (adapted from Human Rights Watch, 2012: 3).

Other areas of coverage are: The Selected Conventions and Recommendations of General Application
Labour Inspection Convention, 1947 (No. 81)
Protection of Wages Convention, 1949 (No. 95)
Employment Policy Convention, 1964 (No. 122)
Occupational Safety and Health Convention, 1981 (No. 155)
Maternity Protection Convention, 2000 (No. 183)

Safety and Health in Agriculture Convention, 2001 (No. 184) (ILO Note, ND).

The international labour code currently consists of 189 conventions and 202 non-binding recommendations. Ensuring that countries implement the international conventions on labour rights and standards which they ratify, and monitoring the application of these standards "aimed at promoting opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity" is the core function of the ILO (Danida, 2014: 3). Eight of the conventions are binding for member states even without the states having ratified them. These are the so-called core conventions: # 29 on forced labour (1930); #87 on freedom of association (1948); #98 on the right to collective bargaining (1949); # 100 on equal pay for men and women (1951); # 105 on abolition of forced labour (1957); #111 on discrimination in employment and occupation (1958); # 138 on minimum age (1973); # 182 on worst forms of child labour (1999) (Danida, 2014: 3).

3.4 Human Rights and NGOS

Non-governmental organisations (NGOs) have played an important role in the overall development of the human rights movement since the early 1800s. It was then focused on the abolition of slavery and humanitarian assistance in armed conflicts. Some organisations deserve special attention, such as the Anti-Slavery Society, which lobbied actively for the abolition of slavery at the Vienna Congress in 1815, and the International Committee of the Red Cross founded in 1859 by Henri Dunant, a Swiss national who had been profoundly affected by his experience at the battle of Solferino the same year. Originally, NGOs were seen as organisations of idealistic and unprofessional volunteers, their painstaking work, persistence, commitment and increased professionalism have earned them recognition as valuable contributors to society in general and human rights work in particular (Eriksson, ND: 1). The last three decades have witnessed a dramatic increase in the number of human rights NGOs (Eriksson, 2008: 1). As of April 2007, 2,719 NGOs had attained consultative status with the UN, and some 400 NGOs were accredited to the Commission on Sustainable Development (CSD) (but today they are numbering over 500) (Eriksson, 2008: 2). They are involved in many more issues than previously, and their political influence has grown both at the international and domestic level (Eriksson, 2008: 1). Human rights non-governmental organisations (NGOs) are often among the first to reach the scene of massive violations of human rights and humanitarian law. Traditionally, human rights NGOs

documented violations, drew attention to them, and by doing so, helped to bring a halt to ongoing violations (Human Rights First, 2004).

The term, "non-governmental organisation" or NGO, came into currency (Formally) in 1945 because of the need for the UN to differentiate in its Charter between participation rights for intergovernmental specialized agencies and those for international private organisations. At the UN, virtually all types of private bodies can be recognised as NGOs. They only have to be independent from government control, not seeking to challenge governments either as a political party or by a narrow focus on human rights, non-profit-making and noncriminal. The structures of NGOs vary considerably (Willetts, ND: 1). They can be global hierarchies, with either a relatively strong central authority or a more loose federal arrangement.

Alternatively, they may be based in a single country and operate transnationally. With the improvement in communications, more locally-based groups, referred to as grass-roots organisations or community based organisations, have become active at the national or even the global level. Increasingly this occurs through the formation of coalitions. There are international umbrella for NGOs, providing an institutional structure for different NGOs that do not share a common identity. There are also looser issue-based networks and ad hoc caucuses, lobbying at UN conferences (Willetts, ND: 1).

An NGO is defined as an independent voluntary association of people acting together on a continuous basis, for some common purpose, other than achieving government office, making money or illegal activities (Willetts, ND: 1). International non-governmental organisations are organisations founded by private individuals; they are independent of states, oriented towards the rule of law and pursuing non-profit aims (Hobe, 2012: 2). NGOs are created on the basis of private initiative that constitutes one of the key features. The activities of NGOs are managed by the commitment and enthusiasm of their members and the results of their work depend largely on their perseverance and keenness. The most important role of NGOs is seen in creation of new rules and standards of international law, and in monitoring and verification of information. NGOs try to influence the international system by both direct participation in treaty-making processes and by trying to draw public attention to global problems (Hobe, 2012: 2). In the human rights work of the UN, NGOs have moved from a limited formal role to a much more proactive role with regard to both Charter-based institutions and mechanisms as well as the work of the treaty-based procedures. The legitimacy of NGOs in international human rights law and practice has in other words been enhanced. The need to give

people's voice a chance to be heard and the task of influencing governments and their representatives are issues that have gained importance. The NGO community as part of the non-governmental sector fulfils such a task, especially in international human rights work (Eriksson, 2008: 1).

At times NGOs are contrasted with social movements. Much as proponents of social movements may wish to see movements as being more progressive and more dynamic than NGOs, this is a false dichotomy. NGOs are components of social movements. Similarly, civil society is the broader concept to cover all social activity by individuals, groups and movements. It remains a matter of contention whether civil society also covers all economic activity. Usually, society is seen as being composed of three sectors: government, the private sector and civil society, excluding businesses. NGOs are so diverse and so controversial that it is not possible to support, or be opposed to, all NGOs (Willetts, ND: 1).

The UN Declaration on Human Rights Defenders recognises the legitimacy of human rights work and the right of "everyone, individually and in association with others", to promote and to strive for the protection, promotion and realisation of human rights both nationally and internationally. The UN Declaration therefore has a broad definition of human rights defender that extends to any group of individuals protecting or promoting human rights, including people working for, associated with, or in any way supporting national, regional or international human rights NGOs (International Council on Human Rights policy, 2009: 5). It is undisputed that non-governmental organisations (NGOs) play a very important role in today's international system by monitoring State activities, performing fieldwork, fiercely advocating their policies and presenting their findings (Human Rights Advocates, ND: 1). While helping to deliver reliable information and form standards and rules of human rights protection, NGOs are considered the prime engine of the human rights movement (Hobe, 2012: 2). Their influence is significant and desirable, as expressed by many governmental delegations as well as international organisations, especially the United Nations, and treaty bodies.

Human rights non-governmental organisations are freely created entities for the sole purpose of helping the governments and governmental entities on the international and national level in the fight against human rights violations and assisting groups of people affected by those violations (Human Rights Advocates, ND: 1). Practically, human rights organisations follow their mission to protect and promote human rights in markedly different ways. Some focus on the protection of one human right (for

example, the right to housing), while others work to protect many different human rights category of people (linguistic, racial or sexual minority groups, women, refugees and migrants, or internally displaced persons) while others work to protect the rights of a wide range of individuals or groups (International Council on Human Rights policy, 2009: 5). A few internationally known organisations identified by Eriksson (2008: 4) are mentioned by way of example:

- Civil and political rights (e.g. Amnesty International, Human Rights Watch)
- Women's rights (e.g. International Alliance of Women, Centre for Women's Global Leadership)
- Children's rights (e.g. Save the Children)
- Minority rights (e.g. Minority Rights Group)
- Labour rights (e.g. World Confederation of Labour)
- Health rights (e.g. International Women's Health Coalition)
- Right to education (e.g. International Union of Students, International Organisation for the Development of Freedom of Education)
- Right to liberty and security (e.g. International Association of Penal Law)
- Right to due process and fair trial (e.g. International Law Association, International Commission of Jurists)
- Freedom of religion (e.g. World Council of Churches, the Muslim World League)
- Freedom of expression (e.g. Article 19, International PEN)
- Right to food (e.g. Food First Information and Action Network)
- Peace (e.g. World Peace Council)
- Environment (e.g. International Institute for Environment and Development)
- Humanitarian (e.g. ICRC, League of Red Cross Societies, Médecins sans Frontières)

The above categories are not exhaustive or mutually exclusive (i.e., an NGO may focus on one or several categories of rights).

To ensure compliance with human rights treaties and accountability for human rights violations, most treaties provide for so called review mechanisms. In these procedures, NGOs play an important role while furnishing reliable information concerning human rights violations by State Parties. They are in a position to seriously question the version portrayed by official State reports and to formulate observations that reflect a more accurate assessment of the situation (Hobe, 2012: 3). Therefore, the treaty

bodies tend to expand their cooperation with NGOs and to formalize their common methods of work. The fundamental purpose of the work of human rights NGOs is to ensure that governments, and other entities that hold power, protect and promote human rights and fulfil their human rights obligations. In these respect human rights organisations are rather distinctive (International Council on Human Rights policy, 2009: 5).

Genuine human rights organisations do not take sides with respect to particular political or other interest groups. At the same time, whenever they lobby or campaign for victims or otherwise advocate for changes in law, public policy or official practice, they challenge the status quo. Much human rights work involves opposing, criticising or challenging the opinions to those in positions of authority. For this reason, human rights NGOs are often perceived by the authorities to pose a threat. This is particularly the case in societies that are authoritarian or otherwise intolerant of claims to rights (International Council on Human Rights policy, 2009: 5).

The lines between political activism and human rights work often become blurred. In such situations, human rights organisations tend to be viewed by those in power as anti- rather than non-governmental. Even where organisations are not perceived to be challenging the authorities, they are often viewed as a threat because they comment and advocate on some of the most highly politicised areas of private and public life. Examples include abortion, sexuality, the status of women, the situation of ethnic or racial minority groups, self-determination, democracy, the treatment of prisoners, the distribution of economic resources in society, long-standing cultural practices, impunity of political leaders for human rights violations, humanitarian intervention, religious rights and freedoms, and counter-terrorism policies (International Council on Human Rights policy, 2009: 5).

Most human rights organisations have been attacked in some way at some time simply because they were doing their job. The severity of such attacks usually depends on the political environment in which an organisation operates. The types of tactic that government and other actors use to disrupt and attack human rights organisations have been well documented by IGOs and NGOs (International Council on Human Rights policy, 2009: 5).

3.5 Human Rights and Amnesty International

Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories who campaign to end grave abuses of human rights (Amnesty International, 2009). Amnesty International is a

worldwide movement of people who campaign for internationally recognised human rights to be respected and protected. Its vision is for every person to enjoy all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. Amnesty International's mission is to conduct research and take action to prevent and end grave abuses of all human rights – civil, political, social, cultural and economic. From freedom of expression and association to physical and mental integrity, from protection from discrimination to the right to shelter – these rights are indivisible (Amnesty International report, 2009: viii).

Amnesty International is funded mainly by its membership and public donations. No funds are sought or accepted from governments for investigating and campaigning against human rights abuses. Amnesty International is independent of any government, political ideology, economic interest or religion. Amnesty International is a democratic movement whose major policy decisions are taken by representatives from all national sections at International Council meetings held every two years (Amnesty International report, 2009: viii). Whether in a High-Profile Conflict or a Forgotten Corner of the Globe, Amnesty International Campaigns for Justice, Freedom and Dignity for all and Seeks to Galvanize Public Support to Build a Better World (Amnesty international, 2014)

SELF-ASSESSMENT EXERCISE

Discuss extensively the task of United Nations in protecting and promoting Human Rights.

4.0 CONCLUSION

United Nations has been at the fore front of the promotion and protections of Human rights. Quite a good Number of Mechanisms and organisations have been put in place for the attainment of these lofty goals. The issues that bother on human rights keep evolving everyday as well as the approaches in redressing them, yet a lot still required to be done hence the various watch dogs and myriad of rights defender.

5.0 SUMMARY

In this outline we have critically appraised the roles or the centrality of United Nation in the promotion and protection of Human Rights revealing the various mechanisms put in place, while examining the United Nations

and women and children's rights, we also have done an exposition of the interplay of human rights and ILO, NGOs and Amnesty international.

6.0 TUTOR-MARKED ASSIGNMENT

1. Discuss in detail the role (s) of United Nations in the promotion of Human Rights generally and precisely as it relates to the rights of women and children.
2. What is the nexus between human rights and ILO, NGOs and Amnesty international?

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UNIT 3 REGIONAL HUMAN RIGHTS PROTECTION

CONTENTS

1.0 INTRODUCTION

In addition to the United Nations charter-based system of human rights protection, which applies to all States, and the United Nations treaty-based system, which applies only to States parties, many States in Africa, the Americas and Europe have also assumed binding human rights obligations at the regional level and have accepted international monitoring. No regional human rights treaty and monitoring mechanism has yet been adopted in the Asian and Pacific region (Nowak, 2005: 49). Regional human rights mechanisms offer many advantages. First, governments have a strong incentive to promote and protect human rights within their region, as severe violations of people‘s rights can lead to conflicts and destabilise neighbouring countries. Moreover, countries within the same region often share similar cultural traditions and political histories; thus governments may find it easier to reach consensus on the content of rights and to endow a regional court with meaningful enforcement powers (Petersen, 2011: 184). The United Nations has long encouraged the development of regional human rights treaties, commissions, and courts. It is important, however, that regional mechanisms complement the U.N. human rights system and do not detract from the obligations that states have already undertaken

when they ratified the core international human rights treaties (Petersen, 2011: 184).

Today, there are both global and regional instruments for the protection of human rights which help to establish their universal validity (FDFA, ND: 7). For Lord et al, (2007:9) in addition to the UN human rights framework, which applies globally, some regional institutions have developed human rights instruments specifically for the countries in their region. These include –

- *The European Convention for the Protection of Human Rights and Fundamental Freedoms* developed by the Council of Europe, 1953
- *The Inter-American Convention on Human Rights*, developed by the Inter-American Commission on Human Rights, 1978.
- *The African Charter on Human and Peoples' Rights* developed by the Organisation of African Unity, 1986.

Regional human rights protection is often a reaction against the failings of nation states operating on the assumption that the pooled resources of a regional understanding will overcome the weakness of national human rights systems. It is often thought that states with a weak human rights system will change their systems to accord with higher regional normative standards (Nwauche, ND: 319). Since the adoption of the Universal Declaration of Human Rights in 1948, a wide array of human rights norms have been developed, and mechanisms for their promotion and protection have been established at international, regional and national levels (Fitzpatrick and O'Flaherty, ND: 5). Also, Since the adoption of the first regional human rights instrument, the European Convention on Human Rights (ECHR) in 1950, different regions of the world have seen development of mechanisms for the promotion and protection of human rights. The African Charter on Human and People's Rights is overseen by the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights, while the Inter-American Commission on Human Rights and Inter-American Court of Human Rights enforce and interpret the American Convention on Human Rights (Fitzpatrick and O'Flaherty, ND: 7). Outside Europe, the American Convention on Human Rights and the African Charter on Human and Peoples' Rights ("Banjul Charter") are particularly worth mentioning (FDFA, ND: 12).

Reacting to regional human rights Nwauche (ND: 319) was expansive and clear in his analysis. He maintained that:

Since regional economic integration is about the development of the people of the region concerned, it is about human rights in the process of integration and in the potential results of integration. It is, therefore, not completely true that human rights is a subject that regional integration must address before it becomes part of the process. From the outset, human rights are part of the integration process, since integration is likely to be aimed at satisfying at least the socioeconomic rights of the people of the region. Furthermore, the abolition of national restrictions on the movement of people, goods, services and capital, in whatever stage of integration, is about the rights of the people. If the people of a region have a regional right of residence instead of a national right of residence, their freedom of movement, assembly and association are enhanced. Every decision taken towards enhancing the integrative process is likely to impact the human rights of the people of the region. This includes the interpretative jurisdiction of the regional courts of justice and even those whose mandate is restricted to an interpretation of the regional constitutive treaty. Even when there is no court of justice, the organs of a regional economic community are involved in the protection of the human rights of their people, since it is true that not only the judiciary can promote and protect human rights. Notably in this regard, regional economic integration is about human rights – even if this is not overtly stated or recognised. Of course when human rights are recognised, this factor is more likely to play a central role in the developmental efforts of the regional economic community.

The American Convention on Human Rights focuses mainly on civil and political rights. Social rights are dealt with in an additional protocol. The Inter-American Commission on Human Rights and the Inter-American Court on Human Rights see to it that the rights are attained (FDFA, ND: 12). The Banjul Charter goes a step further still, and as well as a comprehensive catalogue of individual rights also contains a number of collective rights. These include the rights of peoples to self-determination and their right to freely dispose of their own wealth and natural resources, the right to economic, social and cultural development and to a satisfactory environment that is favourable to development. An Additional Protocol that came into force in 2004 called for the creation of an African human rights court to work in tandem with the African Commission on Human and Peoples' Rights (FDFA, ND: 12).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- make distinction between United Nations and the Regional bodies in their promotion and protection of human Rights
- list the regional bodies and enunciate their roles in guaranteeing human Rights
- explain in details other efforts made by the regional bodies in human Rights promotion and protection
- identify and explain also the roles of the sub regional bodies and the roles of other evolving organisation like the court
- examine the details of the responsibility(ies) of National Human Rights Institutions (NHRIs).

3.0 MAIN CONTENT

3.1 European Regional Human Rights Mechanisms

The European human rights protection framework is remarkably complex and multi-faceted. Its evolution can at least be in part attributed to such considerations as: a) a recognition that strong human rights protection can serve as a bulwark against totalitarianism and fascism; b) an understanding to the extent of which economic strength is closely related to sturdy systems for the protection of human rights; and c) a widely held belief that Europe can only play a prominent part in world affairs to the extent that it acts as one. While considerations such as these have fuelled the growth of the European human rights institutions, it must also be acknowledged that the protection of human rights in Europe remains uneven across the region and that traditionally more attention has been paid to civil and political rights than economic, social and cultural rights. Considerable challenges also persist for the protection of universal standards across a wide range of diverse political and social contexts (Fitzpatrick and O'Flaherty, ND: 9).

Three European inter-governmental organisations are concerned with the promotion and protection of human rights: the Organisation for Security and Cooperation in Europe (OSCE), the Council of Europe (CoE) and the European Union (EU). All three organisations were created after World War II; they form a concentric system of membership and geographical extension. All European sovereign States are members of the OSCE, most of them are members of the CoE and many are members of the EU. All

three organisations are based on common European values of rule of law, democracy and human rights *(Fitzpatrick and O'Flaherty, ND: 9).*

The primary goal of the Council of Europe is the protection of human rights and fundamental freedoms. As soon as it was established in 1949, the Council began to draw up the European Convention for the Protection of Human Rights and Fundamental Freedoms, which was signed in 1950 and came into force in 1953. The European Convention and its Additional Protocols constitute general human rights treaty focused on civil and political rights. Social, economic and cultural rights are enshrined in the European Social Charter (1961-65) and its Additional Protocols and revisions (the Revised European Social Charter (1996-99). Furthermore, the Council of Europe has adopted special treaties in the areas of data protection, migrant workers, minorities, torture prevention and biomedicine (Nowak, 2005: 53). The achievements of the European Convention on Human Rights (the European Convention; the Convention; ECHR) and its supreme judicial tribunal, the European Court of Human Rights (the ECHR or the Court), are widely acclaimed by scholars, lawyers, government officials, and human rights advocates. Since its founding over 50 years ago, the Convention has expanded along three axes – jurisprudentially, institutionally, and geographically. What was once an agreement among a small group of Western European states to guarantee core civil and political liberties by means of an optional judicial review mechanism has now been supplemented by 14 protocols (Helfer, 2008: 126)

Today, the European Convention provides for the most advanced system of human rights monitoring at the supranational level. Under article 34 of the European Convention, any person, NGO or group of individuals claiming to be a victim of a human rights violation, under the Convention and its protocols, committed by one of the currently 46 member States of the Council of Europe is entitled, once all domestically available possibilities of seeking remedy have been exhausted, to file a petition to the European Court of Human Rights, whose seat is in Strasbourg (France). If a violation is found, the Court may provide satisfaction to the injured party. Its decisions are final and legally binding on the States parties. Their implementation is monitored by the Committee of Ministers, the highest political body of the Council of Europe (Nowak, 2005: 53). To state the problem bluntly, the ECHR is becoming a victim of its own success and now faces a docket crisis of massive proportions. A combination of factors – the Court's positive public reputation, its expansive interpretations of the Convention, a distrust of domestic judiciaries in some countries, and entrenched human rights problems in others – has attracted tens of thousands of new individual applications annually (Helfer, 2008: 126).

Under a Protocol to the European Social Charter that entered into force in 1998, some organisations may lodge complaints with the European Committee on Social Rights. Once a complaint has been declared admissible, a procedure is set in motion, leading to a decision on the merits by the Committee. The decision is transmitted to the parties concerned and the Committee of Ministers in a report, which is made public within four months. Lastly, the Committee of Ministers adopts a resolution, in which it may recommend that the State concerned take specific measures to ensure that the situation is brought into line with the Charter (Nowak, 2005: 53).

Human Rights Treaties of Council of Europe:

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950-1953) and Additional Protocols
European Social Charter (1961-1965), Additional Protocols and
Revised European Social Charter (1996-1999)
European Convention on the Legal Status of Migrant Workers (1977-1983)
European Convention for the Prevention of Torture and Inhuman or Degrading
Treatment or Punishment (1987-1989)
European Charter for Regional or Minority Languages (1992-1998)
Framework Convention for the Protection of National Minorities (1995-1998)
European Convention on the Exercise of Children's Rights (1996-2000)
Convention on Human Rights and Biomedicine (1997-1999)
European Convention on Nationality (1997-2000) (Nowak, 2005: 49).

3.2 The Americas

The inter-American system for the protection of human rights comprises two distinct processes, based on the one hand on the Charter of the Organisation of American States (OAS), and on the other hand on the Pact of San Jose, Costa Rica (the American Convention on Human Rights).

While the charter-based process is applicable to all OAS member States, the American Convention on Human Rights is legally binding only on States parties (Nowak, 2005: 51). The Organisation of American States (OAS) endorsed the nonbinding American Declaration of the Rights and Duties of Man (Declaration) in 1948, even before the U.N. General Assembly approved the UDHR. The Inter-American Commission on Human Rights (Commission‖) was established in 1959 and held its first session in 1960. The Commission has authority to examine communications alleging violations of the Declaration and to publish

observations on the general human rights situations of member states. In 1969, OAS adopted a binding regional treaty, the American Convention on Human Rights (ACHR) (Peterson, 2011:187), and in force since 1978, focuses on civil and political rights, but is supplemented with an Additional Protocol (1988-1999) addressing economic, social and cultural rights (Nowak, 2005: 51).The ACHR gave the Commission additional enforcement powers and established the Inter-American Court of Human Rights, which held its first hearing in 1979 (Peterson, 2011:187).

Furthermore, OAS has adopted special treaties on enforced disappearances, torture, violence against women, international trafficking in minors and discrimination against persons with disabilities (Nowak, 2005: 51). Only states and the Inter-American Commission on Human Rights can submit cases to the Inter-American Court of Human Rights, however, which mean that the Commission is the gateway to the Court for individuals who wish to file complaints against their governments (Peterson, 2011:187).

Currently twenty-four of the thirty-five members of the OAS are states parties to the ACHR and twenty-one have acknowledged the jurisdiction of the Inter-American Court of Human Rights in contentious cases (Peterson, 2011:187). The overwhelming majority of the thousands of complaints that are filed under this system are dealt with only by the Inter-American Commission, which declares them inadmissible, facilitates an amicable settlement or publishes its conclusions on the merits of the cases in a report. Such reports contain non-binding recommendations that are in practice all too often ignored by the respective Governments. The applicants themselves are not entitled to bring their cases before the Inter-American Court of Human Rights; only the States concerned and the Commission may do so. Although the Commission, in accordance with its recently revised rules of procedure, has begun to refer an increasing number of cases to the Court, only about 50 individual petitions have so far given rise to final and legally binding judgements of the Court (Nowak, 2005: 51).

In addition, the Inter-American Court can review other members of the OAS as part of its advisory jurisdiction. While involuntary disappearances have constituted a significant part of the Court‘s docket, it also has established precedents regarding the treatment of people with mental disabilities, homeless children, undocumented migrants, and women in detention (Quiroga, 2003 and Osuna, 2008 quoted in Peterson, 2011:187). Those cases addressed human rights violations in certain South and Central American countries. In most of them, it was established that gross and systematic human rights violations (including torture, arbitrary executions and enforced disappearances) had taken place, and the Court granted far-

reaching measures of reparation beyond monetary compensation to the victims and their families. In addition to its "contentious jurisdiction" (competence to hear cases between contending parties), the Court is also competent to render advisory opinions interpreting international human rights treaties (especially the American Convention on Human Rights) and assessing the compatibility of domestic laws with these treaties (Nowak, 2005: 51). In extreme cases, the Court can order provisional measures to prevent irreparable damage. Compliance has been a challenge, however, and only a minority of the Inter-American Court's judgments have been fully implemented (Cavallaro and Brewer, 2008).

Human rights treaties of Organisation of American States (OAS):

American Convention on Human Rights (1969-1978) and Additional Protocols
Inter-American Convention to Prevent and Punish Torture (1985-1987)
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994-1995)
Inter-American Convention on the Forced Disappearance of Persons (1994-1996)
Inter-American Convention on International Traffic in Minors (1994-1997)
Inter-American Convention on the Elimination of All Forms of Discrimination against
Persons with Disabilities (1999-2001) (Nowak, 2005: 49).

3. 3 Asian Regional Human Rights Mechanisms

Asia is the only region in the world that does not have any region-wide human rights treaty or human rights mechanism directed towards the promotion and protection of human rights. The quest for a regional mechanism in the form of a regional human rights court or commission to provide redress where national courts and institutions are unable or unwilling to provide justice is an ongoing quest (or just a dream) for many human rights practitioners in Asia. Since the 1960s there have been various initiatives by different groups to set up regional and sub-regional mechanisms in Asia. These initiatives have been driven mainly by human rights bodies of the United Nations (Chiam, 2009: 128). To date, a mechanism similar to those established in Europe, America, and Africa, has not been created in Asia-Pacific region. However, the region has seen developments initiated by different actors. Targeting the Asia-Pacific region as a whole, since the 1990s, the UN, drawing on local expertise, has supported technical cooperation activities in the region, through workshops and assistance in the creation of national human rights institutions (NHRIs).

In addition, the informal Asia-Europe Meeting Seminar on Human Rights promotes dialogue between governments and civil society (Fitzpatrick and O'Flaherty, ND: 8).

There is no Asian and Pacific regional convention on human rights. Through OHCHR, however, the countries of the region have focused on strengthening regional cooperation to promote respect for human rights. In a series of Asian and Pacific regional workshops, notably a workshop held in Tehran in 1998, a framework of cooperation was established and a consensus was reached on principles and a "step-by-step", "building-block" approach that could lead to regional arrangements through extensive consultations among Governments. It has been agreed that the regional arrangements must address the needs and priorities defined by the Governments of the region. Roles, functions, tasks, outcomes and achievements are to be determined by consensus (Nowak, 2005: 52).

3.4 African Charter on Human Rights Protection

The African Charter, adopted by the Conference of Heads of State and Government of the Organisation of African Unity (OAU) on 27 June 1981 in Nairobi, Kenya, came into force on 21 October 1986 and was ratified by all Member States of the African Union (AU). The AU, which replaced the OAU on 26 May 2001, establishes the rights guaranteed under the African Charter on Human and Peoples' Rights as the principle and objective in its Constitutive Act (International Federation for Human Rights (FIDH), 2010: 20).

It is a general human rights treaty and has been ratified by all 53 States members of the African Union (Nowak, 2005: 49). State parties to the African Charter: South Africa (ratification date: 1996), Algeria (1987), Angola (1990), Benin (1986), Botswana (1986), Burkina Faso (1984), Burundi (1989), Cameroon (1989), Cap-Vert (1987), Comoros (1986), Congo (1982), Côte d'Ivoire (1992), Djibouti (1991), Egypt (1984), Eritrea (1999), Ethiopia (1998), Gabon (1986), Gambia (1983), Ghana (1989), Guinea (1982), Guinea-Bissau (1985), Equatorial Guinea (1986), Libyan Arab Jamahiriya (1986), Kenya (1992), Lesotho (1992), Liberia (1982), Madagascar (1992), Malawi (1989), Mali (1981), Mauritius (1992), Mauritania (1986), Mozambique (1989), Namibia (1992), Niger (1986), Nigeria (1983), Uganda (1986), Republic of Rwanda (1983), Sahrawi Arab Democratic Republic (1986), Central African Republic (1986), Democratic Republic of Congo (1987), Sao Tome and Principe (1986), Senegal (1982), Seychelles (1992), Sierra Leone (1983), Somalia (1985), Sudan (1986), Swaziland (1995), Tanzania (1984), Chad (1986), Togo (1982), Tunisia

(1983), Zambia (1984), Zimbabwe (1986) (FIDH International Federation for Human Rights, 2010: 21).

As its title implies, this regional treaty, in addition to a number of civil, political, economic, social and cultural rights, also provides for collective rights of peoples to equality, self-determination, discretion over their wealth and natural resources, development, national and international peace and security and "a general satisfactory environment". Although such solidarity rights of the so-called "third generation" of human rights are of considerable political importance, their legal significance in a binding treaty is disputed. In addition to the Charter, AU has adopted treaties in the areas of refugee protection and children's rights (Nowak, 2005: 49). Opening a new era of human rights protection in Africa, the Charter was influenced by the legal texts of international and regional human rights protection systems and the legal traditions of Africa. Its conception of "human right" is broad, which makes it different from other conventions: it includes not only civil and political rights but also economic, social and cultural rights as well as peoples' rights (International Federation for Human Rights (FIDH), 2010: 20).

The Charter provides for a complaints procedure before the African Commission on Human and Peoples' Rights, headquartered in Banjul, Gambia. Since complaints (or "communications") may be submitted by any person (including States, which may file inter-State complaints, and any individual or collective entity, such as NGOs, families, clans, communities or other groups), the legal question of the status of the victim does not arise. The African Commission does not hear isolated complaints, but only communications suggesting the existence of a pattern of serious or massive violations of human and peoples' rights. In such cases, the African Commission may undertake an in-depth study only at the request of the Assembly of Heads of State and Government, the highest political body of AU (Nowak, 2005: 49). In addition to this complaints procedure, the Commission also examines State reports under a procedure similar to the one followed by the United Nations treaty bodies. An Additional Protocol to the African Charter, adopted in 1998 and providing for the establishment of an African Court on Human and Peoples' Rights, entered into force on 25 January 2004 (Nowak, 2005: 49).

African Union (formerly Organisation of African Unity) has in place the following treaties:
African Charter on Human and Peoples' Rights (1981-1986)
Convention Governing the Specific Aspects of Refugee Problems in Africa (1969-1974)

Convention on the Rights and Welfare of the African Child (1990-1999) (Nowak, 2005: 49).

3.5 Regional Courts and Human Rights Protection

The potential impact of the proliferation of human rights courts on the unity of international human rights law in Africa and how best to deal with this reality is another outstanding issue for advocates for human rights in the region (Murungi and Gallinetti, 2010: 120). Since human rights are about people, their involvement in an adjudicatory process at a regional body is often a credible yardstick in assessing the nature and quality of regional human rights protection. Ideally, the people of a regional economic initiative or a regional human rights initiative should have an independent body to examine complaints of human rights abuses. While an administrative body whose decisions are not binding is often the first stage of a human rights enforcement mechanism, it is an adjudicatory body with binding powers that is regarded as adequate for credible human rights enforcement (Nwauche ND: 320).

The creation of a coherent continental system of human rights protection in Africa responds to a broader international movement to develop regional systems of human rights protection. This movement was initiated by the adoption of the European Convention for the Protection of Human Rights and Fundamental Freedoms in 1950 followed by the establishment of a European Court of Human Rights, as well as the entry into force of the American Convention on Human Rights in 1969, establishing the Inter-American Court of Human Rights. The delay in establishing the African system corresponds mainly with the political and social environment of the 1970s and 1980s, a period marked by the fact that some heads of state were more concerned with wielding the principle of national sovereignty to hide violations of human rights committed in their country, than building a supra-national system of protection of human rights (FIDH, 2010: 20).

Headlines about human rights in Africa usually make for grim reading. Authoritarian regimes, collapsed states, civil and ethnic violence, grinding poverty, violent abuse and discrimination against women, child soldiers, the HIV/AIDS pandemic and other human tragedies are the mainstay of international coverage (Sceats, 2009: 2). In its 2008 report on the state of the world's human rights, Amnesty International concluded gloomily that the 'human rights promised in the Universal Declaration (of Human Rights) are far from being a reality for all the people of Africa'(Amnesty International, 2008 cited in Sceats, 2009: 2). Originally, institutional weaknesses, lack of resources, lack of binding effects of decisions and of

their implementation by States thus resulting in the relative ineffectiveness of the African Commission for the protection of human rights that has been noted by NGOs and officially recognised in 1994 by the OAU: these are the reasons for the will to draft a Protocol to the African Charter establishing an African Court (FIDH, 2010: 29). Serious violations of human rights were suffered by the African civilian population. The genocide in Rwanda and the international crimes in the Democratic Republic of Congo, Liberia, Côte d'Ivoire, Sierra Leone, Somalia and Darfur are dramatic examples. … torture, slavery, censorship, arbitrary arrests and detentions, discrimination against women or ethnic minorities, barriers to education or to the right to health, etc. These many fields are covered by the Charter and included in the jurisdiction of the new Court (Belhassen, 2010: 6).

It was during the Assembly of Heads of State and Government of the OAU in Tunis (Tunisia) in June 1994 that the process of drafting the Protocol to the African Charter establishing the African Court (Protocol) was officially launched: a resolution was adopted that set in motion the preparatory work for the establishment of an African Court. In fact, a first draft Protocol had already been drafted in 1993 by the International Commission of Jurists, an NGO based in Geneva (FIDH, 2010: 29). It was due to the pressure from African and international human rights NGOs, including FIDH, that in September 1995 in Cape Town (South Africa), a draft protocol prepared by the OAU was proposed and discussed at numerous meetings and consultations that followed. The Protocol was finally adopted in Ouagadougou (Burkina Faso), on the occasion of the 34th Ordinary Session of the Conference of Heads of State and Government of OAU on 10 June 1998, during which 30 Member States signed the text. The Protocol was set to enter into force 30 days after the deposit of the 15th instrument of ratification by an African State (art. 34 of the Protocol) (FIDH, 2010: 29).

While planning for the Court was still under way, the then Chairperson of the AU Assembly (the top decision-making body of the AU, comprising heads of state and government), President Olusegun Obasanjo of Nigeria, revived an earlier idea (previously rejected by the Executive Council of the AU) to merge this Court with the African Court of Justice. The AU's Constitutive Act identifies the African Court of Justice as the principal judicial organ of the AU and, at the time of President Obasanjo's suggestion, it was also in the process of being set up. President Obasanjo's arguments for merging the two courts included cost savings and a need to rationalise pan-African institutions (Sceats, 2009: 5). This was accomplished on 25 January 2004 after the ratification of the Protocol by the Union of Comoros on 26 December 2003 (FIDH, 2010: 29). In July 2004 the AU Assembly agreed to merge the African Court on Human and

Peoples' Rights with the African Court of Justice (Sceats, 2009: 5). The actual establishment of the Court has been slow. More than five years. Indeed, while the Protocol entered into force in January 2004, the Court only became fully operational in early 2009 – after choosing a seat, the election of judges, the appointment of a Registrar and Court staff and the adoption of adequate operating funds. The Court has now entered into action (Belhassen, 2010: 5).

The Court's lifespan is obviously limited since it is destined to become the Human Rights Section of the future African Court of Justice and Human Rights when its Protocol enters into force. But this change will have little consequences on the overall African system of protection of human rights. And meanwhile, the African Court on Human and Peoples' Rights does indeed exist for yet an undetermined time and sets the scenery of the Court that will succeed it (Belhassen, 2010: 5). The Court's mandate is to judge the compliance by a State Party with rights included in the African Charter on Human and Peoples' Rights and other instruments on the protection of human rights ratified by that State. Individuals and non-governmental organisations may, under certain conditions, bring a case of a breach of human rights directly before the Court or indirectly through the African Commission on Human and Peoples' Right (Belhassen, 2010: 5).

3.6 Sub Regional Organisations and Human Rights Protection (i.e. ECOWAS)

Regional integration in post-colonial Africa began in 1963, with the adoption of the Charter of the Organisation of African Unity (OAU). This regional initiative was followed by the formation of sub-regional economic communities, commonly referred to as Regional Economic Communities (RECs) such as the East Africa Community (EAC) (1967), the Economic Community of West African States (1975) and the Southern Africa Development Coordinating Conference (SADCC, 1980). In general, the main objective of the co-operation was the pursuit of economic development of member states (Murungi and Gallinetti, 2010: 119). Save for a remote reference to the United Nations Declaration of Human Rights the purposes of the OAU did not include the promotion or protection of human rights. In addition, though the African Charter on Human and Peoples' Rights (African Charter) was adopted in 1981, promotion and protection of human rights only became an objective of the African Union (AU) in the year 2000 upon the adoption of the Constitutive Act of the African Union (Murungi and Gallinetti, 2010: 119).

The development of sub-regional communities in Africa is not a new phenomenon, but the incorporation of human rights into their agenda is

relatively new. Treaties establishing the RECs recognise the promotion and protection of human rights among their principles and different organs have been established to achieve these objectives (Ebobrah & Tanoh, 2010). In effect, Regional Economic Communities (RECs) courts have introduced a new layer of supra national protection of human rights in Africa. The development is welcomed because it is likely to advance the cause for the promotion and protection of human rights. However, considering that the primary focus of the RECs is economic development, their ability to effectively embrace the role of human rights protection is questionable. The development of this mandate for the sub-regional courts is necessitated by the emerging prominence of human rights in the business of RECs. But, its interpretation and implementation has extensive ramifications for the advancement of human rights in Africa; the harmonisation of human rights standard in the region and for the unity and effectiveness of the African human rights system (Murungi and Gallinetti, 2010: 118).

Within the last two to three years, the involvement of African sub regional organisations in the promotion and protection of human rights on the continent has increasingly become entrenched. Progressively, even if sometimes grudgingly, important actors in the African human rights system have had to deal with the reality that sub-regional bodies now contribute to the development of Africa's human rights agenda (Ebobrah, 2010: 216).

Similarly, the founding documents of most RECs adopted before the African Charter, did not provide for protection or promotion of human rights whether as a goal or principle thereof. Currently however, promotion and protection of human rights and democracy is part of the fundamental principles or goals of most RECs (Murungi and Gallinetti, 2010: 119). The entry of RECs as an avenue for protection of rights is generally favourably hailed (Viljoen, 2007: 503), its novelty demands a consideration as to their appropriateness as fora for the protection of human rights.

There is also concern over their capacity to effectively exercise the new competence in light of the economic focus of their founding treaties (Murungi and Gallinetti, 2010: 120). Regional Economic Communities are much involved in the protection of human rights to change the human rights system of those states having poor human rights record and to facilitate the trade relations among the member states and the integration as well. The treaties of many of the RECs made reference to the African Charter on Human and Peoples' Rights as a common standard to achieve higher normative standard throughout the regions. Furthermore, some RECs involve in the enforcement of human rights for violations under the African Charter on Human and Peoples' Rights and other Conventions that a state

concerned is party in addition to the communities' treaties, conventions and protocols (Esmael, 2010: ix).

In the recent past human rights have become fundamental components of the task of RECs in Africa. This development can be regarded as a response to the regional agenda as set out in the African Charter and the Abuja Treaty. The mandate of REC courts has also now been extended to cover human rights. However, the approaches adopted by RECs in this regard are dissimilar and uncoordinated. Hence concerns persist as to their suitability as forums for promotion and protection of human rights, the delimitation of such role so as to remain legitimate yet sufficiently utilitarian within the existing frameworks of RECs, and the implications of these new actors on the human rights discourse in the continent (Murungi and Gallinetti, 2010: 121). RECs tend to have an institutional structure that includes a court which is the judicial or principal legal organ of the community to deal with controversies relating to the interpretation or application of the REC's law (Ruppel, 2009 : 282).

As the organs vested with such responsibility, they have, as a result of the incorporation of human rights into the agenda of RECs, been required to adjudicate over cases, to interpret provisions of their treaties or to advise their principals on questions with implications for human rights. The treaties of most RECs have therefore gradually moved towards according REC courts competence to hear human rights cases (Ebobrah, 2009: 80). In effect, the RECs have introduced a new layer of supranational protection and promotion of human rights in Africa. Their courts now play an important role in the protection of human rights through the determination of human rights cases (Murungi and Gallinetti, 2010: 119). Sub regional courts are organs of RECs vested with judicial powers. Some of them have decided human rights cases. Although it is advantageous to have as many institutions as possible to enhance the promotion and protection of human rights, overlapping judicial powers of organs raise concerns such as the possibility of divergent conclusions on the same issues, duplication of efforts, and inefficient allocation and use of scarce resources, particularly when different courts have jurisdiction over the same case (Viljoen, 2007: 239). Notwithstanding the fact that there is an annual increase in the number of human rights cases that come before some of the sub-regional courts, there has not been an equivalent avalanche of activities in the non-juridical sector. Thus, in the past few years, sub-regional contributions to the African human rights system have been most visible in the judicial sector (Ebobrah, 2012: 223).

The development of regional and sub regional arrangements have varied markedly from region to region, whether measured in terms of scope, capacity or authority. We cannot apply a single standard, benchmark or template to all regions. Assets and needs differ from country to country and from region to region (UN, 2011:3). The evolution of protection of human rights as an agenda of RECs and as part of the jurisdiction of their courts is unique to each one of them, and the approaches adopted in this regard are also different. Thus to trace these developments, it is necessary to look at some of these RECs and their courts in turn (Murungi and Gallinetti, 2010: 119). We would limit this discussion to ECOWAS, which is our sub region and the most relevant to us in this analysis.

3.7 ECOWAS

The Economic Community of West African States was established in Lagos, Nigeria in May 1975. The founding members were Benin, Burkina Faso, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Sierra Leone and Togo. Cape Verde subsequently acceded to the ECOWAS Treaty of 1975. Following the report of a Committee of Eminent Persons appointed to review the founding Treaty, the ECOWAS Treaty was revised in 1993. In 2000, Mauritania withdrew its membership of the organisation (http:// www.ecowas.int) The Revised ECOWAS Treaty was adopted in 1993 and entered into force on 3 August 1995. As at December 2008, 14 out of the existing 15 member states had ratified the Treaty (Ebobrah & Tanoh, 2010: 183). Human rights violations, destabilizing coups, and civil unrest are sadly commonplace in West Africa, and domestic legal institutions are generally weak.

3.8 Ecowas Community Court of Justice (Eccj) and Human Right

Most treaties establishing Regional Economic Communities (RECs) that were adopted or revised after the adoption of the African Charter recognise the promotion and protection of human rights as one of their principles. These treaties have established judicial bodies that, to some extent, have been dealing with human rights matters. The ECOWAS Community Court of Justice is the pioneer in upholding human rights because it has clear human rights jurisdiction (Ali, 2012: 244). The ECOWAS Court of Justice's jurisdiction on human rights is largely due to the recognition that human rights and access to justice in the sub-region are fundamental values of the ECOWAS Community enshrined in Articles 4(g), 56(2) and 63(2) of the 1993 Revised ECOWAS Treaty and Articles 9(4) and 10(d) of the 2005

supplementary protocol (Ladan, 2009 cited in Ali, 2012: 246). The member states gave the ECOWAS Court a broad human rights jurisdiction, and they have eschewed opportunities to narrow the Court's authority (Alter, Helfer and McAllister, 2013: 737).

Individuals can also bring complaints that allege violation of the African Charter and other human rights instruments before the ECOWAS Court. Although the ECOWAS Community Court of Justice (ECCJ) came into being in 1991, it was not until the early part of the new millennium that it became active. Following challenges that the Court faced in the early years of its existence, including the issue of a lack of individual access, internal and external pressure was mounted on ECOWAS authorities resulting in the adoption in 2005 of a Supplementary Protocol on the Court. Some of the high points of the 2005 Supplementary Protocol on the ECOWAS Court were the conferment of a clear human rights competence on the Court and the liberalisation of individual access to the Court. Since the coming into force of the 2005 Supplementary Protocol, ECCJ has been very active in the field of human rights protection. During 2005, several cases with huge implications for human rights passed through the doors of ECCJ (Ebobrah, 2010: 231).

The Community Court of Justice of the Economic Community of West African States (ECOWAS Court) is an increasingly active and bold adjudicator of human rights. Since acquiring jurisdiction over human rights complaints in 2005, the ECOWAS Court has issued numerous decisions condemning human rights violations by the member states of the Economic Community of West African States (Community). Among this Court's path-breaking cases are judgments against Niger for condoning modern forms of slavery and against Nigeria for impeding the right to free basic education for all children (Alter, Helfer and McAllister, 2013: 737). The ECOWAS Court also has broad access and standing rules that permit individuals and nongovernmental organisations (NGOs) to bypass national courts and file suits directly with the Court. Although the Court is generally careful in the proof that it requires of complainants and in the remedies that it demands of governments, it has not shied away from politically courageous decisions, such as rulings against the Gambia for the torture of journalists and against Nigeria for failing to regulate multinational companies that have degraded the environment of the oil-rich Niger Delta (Alter, Helfer and McAllister, 2013: 737).

Shedding more light in the centrality of ECOWAS court in securing and protecting Human Rights Alter, Helfer and McAllister (2013: 738) revealed that:

The ECOWAS Court's repurposing and subsequent survival as an international human rights court have several unexpected dimensions. First, the Court did not claim human rights competence for itself via judicial lawmaking. Rather, it acquired this authority in response to a coordinated campaign in which bar associations, NGOs, and ECOWAS officials—in addition to ECOWAS Court judges themselves—mobilized to secure member states' consent to the transformation. Second, the Court has strikingly capacious jurisdiction and access rules, with no specified catalogue of human rights, with direct access for private litigants, and with no requirement to exhaust domestic remedies. These design features are especially curious because West African states have been reluctant to grant similar authority to the judicial institutions of the African Charter on Human and Peoples' Rights (African Charter). Third, when the ECOWAS Court's early rulings generated opposition from some governments, the member states eschewed opportunities to rein in the Court. Instead, they adopted institutional reforms that arguably strengthen the judges' independence and authority. Nevertheless, the Court faces an ongoing challenge of securing compliance with its judgments, a challenge that the judges are attempting to meet by tailoring the remedies that they award to successful applicants and by publicly pressuring governments to implement the Court's rulings.

3.9 National Human Rights Institutions (NHRIs)

The gap between international law theory and domestic human rights practice is still very wide. Global treaties such as the U.N. Charter, the ICCPR, ICESCR, and regional treaties such as European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter, The American Convention on Human Rights, and the African Charter on Human and People's Rights, are all assumed as more or less binding international standards. Article 38.1 of the Statute of the International Court of Justice refers to the "sources" of international law (Walters, 1995: 12). Global and regional human rights treaties, when ratified, are clearly international law under Article 38.1., and establish "rules expressly recognized" by state parties (Blaustein, Clark and Sigler, 1987). The obligation to implement human rights treaties will continue to fall primarily on domestic institutions, including governments, domestic courts, and national human rights institutions (NHRIs), which are independent statutory bodies with a mandate to promote and protect human rights. The United Nations and human rights treaty bodies have encouraged governments to establish NHRIs and there has been a dramatic increase in

the number of such bodies (United Nations 2010, Renshaw, Byrnes & Durbach, 2010).

National Human Rights Institutions (NHRIs) are increasingly being recognised as important human rights actors at both national and international level (Equality and Human Right Commission, 2010: 7).

National human rights institutions can play an important role in ensuring that citizens actually have the ability to exercise civil and political rights and to enjoy, to the maximum extent that the resources of the state permit, economic, social and cultural rights (Renshaw, Byrnes and Durbach, 2010: 117). Over the past 20 years, there has been growing awareness of the need to strengthen, at the national level, concerted action aimed at implementing and ensuring compliance with human rights standards. One of the means used to that end has been the establishment of national human rights institutions (NHRIs). While the term covers a range of bodies whose legal status, composition, structure, functions and mandates vary, all such bodies are set up by Governments to operate independently — like the judiciary — with a view to promoting and protecting human rights (Nowak, 2005: 53). States remain the primary actors, the key conduits through which respect for human rights must be realised. The obligation to respect and enforce human rights rests on states "(Arbour, 2005).

There is always a danger that a government may establish a ―fake NHRI, one that is not independent but rather serves as an apologist for an authoritarian system. For that reason, the international community has devised mechanisms for assessing and accrediting NHRIs based upon the extent to which they comply with the Paris Principles. Only accredited NHRIs are eligible for full membership in the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC‖). As of early 2010, 64 of the 192 Member States of the United Nations have National Human Rights Institutions (NHRIs) – state-based institutions, with mandates to promote and protect domestic and international human rights (Renshaw, Byrnes and Durbach, 2010: 117). NHRIs, often called human rights commissions, should have the capacity and authority to:

- Submit recommendations, proposals and reports to the Government or parliament on any matter relating to human rights;
- Promote the conformity of national laws and practices with international standards;
- Receive and act upon individual or group complaints of human rights violations;

- Encourage the ratification and implementation of international human rights standards and contribute to reporting procedures under international human rights treaties;
- Promote awareness of human rights through information and education, and carry out research in the area of human rights;
- Cooperate with the United Nations, regional institutions, national institutions of other countries and NGOs (Nowak, 2005: 74).

Relations between NHRIs and parliaments have great potential for human rights protection and promotion at the national level. For Burdekin (2007) other areas of coverage of national human right institutions include:

a) Advising Government and Parliament on issues related to legislation or administrative practices, or proposed legislation, or policies or programmes within their jurisdiction;
(b) Enlisting civil society in the performance of its functions;
(c) Educating the public and members of the executive (police, prison officials, the military) and the judiciary about human rights and disseminating information about human rights;
(d) Monitoring compliance by Government, government agencies and the private sector on international human rights treaty obligations;
(e) Promoting the ratification of human rights treaties and advising on the development of new international human rights instruments;
(f) Contributing to government reports to international Treaty Bodies and following up and disseminating reports by the Treaty Bodies;
(g) Co-operating with the United Nations, other NHRIs and national and international NGOs;
(h) Inspecting custodial facilities and places of detention;
(i) Receiving and investigating complaints of human rights violations, conciliating such complaints or providing other remedies;
(j) Compelling the attendance of witnesses and production of documents where necessary to conduct effective enquiries or investigations and taking evidence on oath or affirmation; and
(k) Conducting national enquiries into systemic violations of human rights.

Countries That Have Established National Human Rights Institutions

Nowak (2005: 74) revealed Countries with national institutions accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights: they are:

Asia and the Pacific: Australia, Fiji, India, Indonesia, Malaysia, Mongolia, Nepal, New Zealand, Philippines, Republic of Korea, Sri Lanka, Thailand, Hong Kong Special Administrative Region of China, Islamic Republic of Iran

Africa: Algeria, Cameroon, Ghana, Malawi, Mauritius, Morocco, Niger, Nigeria, Rwanda, Senegal, South Africa, Togo, Uganda, Benin, Burkina Faso, Chad, Madagascar, Namibia, United Republic of Tanzania, Zambia

Americas: Argentina, Bolivia, Canada, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, Venezuela, Antigua and Barbuda, Barbados

Europe: Albania, Bosnia and Herzegovina, Denmark, France, Germany, Greece, Ireland, Luxembourg, Poland, Portugal, Spain, Sweden, Austria, Belgium, Netherlands, Norway, Russian Federation, Slovakia, Slovenia and United Kingdom

SELF-ASSESSMENT EXERCISE

How are the regions responsible for the promotion and protection of Human Right in their regions? Give a vivid account of the various regions as it relates to their roles in Human Right protection in the regions. How does a national human right institution operate?

4.0 CONCLUSION

International and regional human rights systems have developed significantly over the past decades. With the fragmented development of mechanisms both within the UN and regional regimes, there arises a need for cooperation and coordination within and between different mechanisms so as to further improve the protection of human rights on the ground (Fitzpatrick and O'Flaherty, ND: 9). For historical and geographic reasons, there exists a wide disparity between the regional frameworks for the protection and promotion of human rights in Europe and Asia. The European system is vast and sophisticated, while in Asia no over-arching regional framework exists. However, protection mechanisms are emerging at the sub-regional level (Fitzpatrick and O'Flaherty, ND: 9), while the obligation to implement human rights treaties will continue to fall primarily on domestic institutions, including governments, domestic courts, and national human rights institutions (NHRIs).

5.0 SUMMARY

In this Unit, we directed our searchlights to the regional institutions, regional courts or judiciary as an indication of commitment and result oriented principles. We discussed the various regional bodies and their roles, mechanisms and other principles adapted to guarantee human rights in their regions. We equally, examined the roles of the sub regional bodies using ECOWAS as a guide in mirroring the activities of the sub regional bodies in their quest for human rights protection. We drew the curtain of this unit by reflecting on the activities of the National Human Rights Institutions (NHRIs).

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain in details the roles of regional bodies in the promotion and protection of Human rights.
2. What is the significance of the establishment of courts in the regions and sub region to hear or adjudicate human rights cases?
3. What are National Human rights institutions and what are their mandates?

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MODULE 3 HUMAN RIGHTS AND CHALLENGES INTRODUCTION

Essentially, this module is an exciting piece. It is meant to address three significant global challenges – controversies on the Universality of Human Rights, refugees and population and their interplay with Human Right. How to tackle the problem of Refugees has been a great concern but that in itself is not the focus here, the underlying factor is the human rights angle to it.

This module exposes you to the human rights concern of refugees' and other related problems and the global effort in either mitigating or redressing the issue. The international instruments on refugees will provide you with a very rich guide on the global endeavour thus far. Also, Global health, population growth, economic development, environmental degradation, and climate change are the main challenges we face in the 21st century. Besides, the total world population crossed the figure of 7 billion at the end of June 2012; it no doubt has a great implication for human rights. This section desires to equip you with the requisite information on the nexus between human rights and population while also examining the international instruments put in place to address it.

The detailed discussion on this will be found in the following units.

Unit 1 Controversies on the Universality of Human Rights
Unit 2 Human Rights and Refugees: International (Multilateral) Instruments on Refugees: Charters, Convention and Agreements
Unit 3 Human Rights and population
Unit 4 International Instruments on population: Charters, Convention and Agreements

UNIT 1 CONTROVERSIES ON THE UNIVERSALITY OF HUMAN RIGHTS

CONTENTS

1.0 INTRODUCTION

The spirit of human rights has been transmitted consciously and unconsciously from one generation to another, carrying the scars of its tumultuous past. Today, invoking the United Nations Universal Declaration of Human Rights, adopted by the General Assembly in 1948, one may think of human rights as universal, inalienable and indivisible, as rights shared equally by everyone regardless of sex, race, nationality and economic background (Ishay, 2004: 359). Yet conflicting political traditions across the centuries have elaborated different visions of human rights rooted in past social struggles. That historical legacy and current conflicting meanings of human rights are, despite the admirable efforts of the architects of the declaration, all reflected in the structure and the substance of this important UN document (Ishay, 2004: 359). The issue of human rights has always been a matter shared by politicians, lawyers, philosophers and sociologists. Since the adoption of the Universal Declaration of Human Rights scholars and human rights activists have discussed whether the Declaration has become a symbol of human rights universality (Vitkauskaite-Meurice, 2010: 165). The Universal Declaration of Human Rights is a document regarded as a common standard of achievement for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected (Vitkauskaite-Meurice, 2010: 165). Any discussion of the universality of human rights law inevitably evokes the question of whether human rights are based on a concept of human dignity shared by all cultures (Bertrand, 1987 cited in (Vitkauskaite-Meurice, 2010: 165). Although human rights are embodied in treaties drafted within the framework of the United Nations, the issue at hand is whether their validity is based on universal ethical, moral or religious convictions (Lijnzaad, 1995: 103).

The Universal Declaration of Human Rights is not an expression of the pious sentiments of the members of the Human Rights Commission. It is a result of a hard labour by world's intellectuals, diplomats, philosophers, lawyers and statesman (Maduagwu, 1987: 126). What is remarkable about the Universal Declaration is that it could have been adopted at all by the heterogeneous peoples of the United Nations. Although there were only 58 members of the United Nations by the time the declarations was proclaimed (Year Book of the United Nations 1947/1948 cited in Maduagwu, 1987: 127). The states nevertheless came from different cultural areas, under divergent political systems – in particular the opposing political ideologies

of the East and the West (Maduagwu, 1987: 127). Despite some attempts to question the universality of human rights, at the time of the adoption of the Universal Declaration of Human Rights ('UDHR') no member-state of the United Nations ('UN') voted against adoption of the UDHR in 1948. Eight states—the Soviet Union and five of its allies, plus Saudi Arabia and South Africa—abstained. Therefore, the general acceptance of the Declaration gives merit to the claim that the text of UDHR was acceptable to all UN member states in 1948 (Vitkauskaite-Meurice, 2010: 167).

The growing consensus in the West that human rights are universal has been fiercely opposed by critics in other parts of the world. At the very least, the idea may well pose as many questions as it answers. Beyond the more general, philosophical question of whether anything in our pluri-cultural, multipolar world is truly universal, the issue of whether human rights is an essentially Western concept—ignoring the very different cultural, economic, and political realities of the other parts of the world—cannot simply be dismissed (Tharoor, 1999/2000). Through the decades since the adoption of the UDHR it seemed that the world had adopted a unified approach to the concept of human rights and recognized the importance of it. However, the recent changes affecting the modern world, the threat of terrorism, globalisation and fear of the loss of identity have re-opened the discussion on the universality of human rights and put into question the importance and the role of regional human rights systems (Vitkauskaite-Meurice, 2010: 167).

Today many Arab states are keen to reject the universality of human rights and claim that the concept of human rights was inherited as a particular form of colonisation. To the relativist, these instruments and their pretension to universality may suggest primarily the arrogance or 'cultural imperialism' of the West, given the West's traditional urge—expressed, for example, in political ideology (liberalism) and in religious faith (Christianity)—to the view of its own forms and beliefs as universal, and to attempt to universalise them. Moreover, the push to universalization of norms is said by some relativists to destroy the diversity of cultures and hence to amount to another path toward cultural homogenisation in the modern world (Steiner and Alston, 2000: 367). Some objections were also registered by other countries outside the Euro – American continents. Some countries of the Islamic – Arabic cultures objected to certain articles in the declarations believed to be contrary to Islamic Religion in particular Articles 16 and 18 of the declaration dealing with marriage and religious freedom respectively (Maduagwu, 1978: 131). It is needless to add that the Apartheid South Africa also objected to certain provisions of the declarations. Its delegates is reported to have objected to the

comprehensiveness of the declarations which he considered to be excessive and unrealistic (Maduagwu, 1987: 131). The relatively greater cultural and ideological homogeneity of a region may permit agreement on a fuller list of human rights, or their more detailed definition, than the 'universal' processes have achieved. A regional body may thus serve the additional purpose of articulating regionally specific conceptions of shared human rights concepts, or interpreting locally identified human rights norms (Neuman, 2008).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- identify the major controversy (ies) surrounding the Universality of Human Rights
- explain in detail the universality of human rights
- examine the various arguments on the controversy (ies) of Universality of Human Rights.

3.0 MAIN CONTENT

3.1 Universality of Human Right

Universalism is defined as asserting that culture is irrelevant to the validity of moral rules and thus, reaffirms the universality, indivisibility, equality and interdependence of all human rights (Blackburn, 2011: 10). Human rights are held by all persons equally, universally and forever. Human rights are universal: they are always the same for all human beings everywhere in the world. You do not have human rights because you are a citizen of any country but because you are a member of the human family.

This means children have human rights as well as adults (Compasito, ND: 15). It is clear that human rights are generally recognised to be universally applicable ethical norms and not meant to be peculiar to particular societies and cultures. Their interpretation, the extent to which they are taken serious in practice by those in power or the level of the consciousness of their existence or their meaning by the masses who they actually meant to protect – all these will have different shades in the various countries and regions in the world (Maduagwu, 1987:133). Human rights are universal because they are based on every human being's dignity, irrespective of race, colour, sex, ethnic or social origin, religion, language, nationality, age, sexual orientation, disability or any other distinguishing characteristic.

Since they are accepted by all States and peoples, they apply equally and indiscriminately to every person and are the same for everyone everywhere (Nowak, 2005: 4).

SELF-ASSESSMENT EXERCISE

Identify the major controversy (ies) surrounding the Universality of Human Rights.

What is the Universality of Human Rights?

3.2 Controversy (ies) on the Universality of Human Rights

The Universal Declaration of Human Rights (UDHR) upholds the right to equality, freedom and dignity of all human beings, regardless of their condition, opinions or beliefs. Notwithstanding, ever since this proclamation in 1948, human rights have been subject to speculation as to whether such rights can indeed be truly universal. Such questioning of the universality of human rights has been based, to a large extent, both on the role of culture and its moral capacity to determine priorities, and on the confrontation between the individual and the system in communal society (Blackburn, 2011: 1). One of the most intense debates within the human rights community is the one pitting Universalists against cultural relativists. This debate, however, can be traced to ancient times. Indeed, in historical reality, each major stride forward toward a universal perspective of human rights, was followed by severe setbacks.

The universalism of human rights brandished during the French revolution was slowly superseded by a nationalist reaction incubated during Napoleon's conquests, just as the internationalist hopes of socialist human rights advocates were drowned in a tidal wave of nationalism at the approach of World War I (Ishay, 2004: 364). The human rights aspirations of the Bolshevik revolution and that of two liberal sister institutions, the League of Nations and the International Labor Organisation, were crushed by the rise of fascism and Stalinism during the interwar period; the establishment of the UN and the Universal Declaration of Human Rights was eclipsed by intensifying nationalism in the emerging third world and the global competition between two nuclear armed superpowers. Finally, the triumphant claims after 1989 that human rights would blossom in an unfettered global market economy were soon echoed by cultural nationalism in the former Soviet Union, Africa, the Balkans, the Middle East and beyond (Ishay, 2004: 364). The central point is that cultural relativism is a recurrent product of a historical failure to promote universal

rights discourses in practice, rather than a legitimate alternative to the comprehensive vision offered by a universal stand on justice (Ishay 1995a quoted in Ishay, 2004: 365).

The theory of scientific racism, recently promoted by James Watson, who believes black people to be less intelligent than the whites, highlights the fact that the battle for the recognition of all human beings as equal has not yet been won, even at the dawn of the twenty – first century. This is the challenge humanity still has to face. Watson racial prejudice did not come as a surprise. All through human history, we find countless examples of whites believing in the inferiority of other races, particularly, in inferiority of the black race vis- a - vis "the white race". In fact, for a long time many European and North American scholars had been taught that blacks were less human or no human at all (Maduagwu, 2009). If the attitudes of the white were just a matter of belief, or a prejudice, it would not have mattered but those attitudes have entailed terrible consequences for black people as well as for humanity at large. The belief that black people are inferior beings has been used as justification for countless crimes against them throughout history, among them: 400 years of transatlantic slavery and a century of official discrimination; after the abolition of slavery in the United States, a century of Colonialism; decades of Apartheid policy in South Africa; criminal acquiescence in genocide on the African Continent by the international community e.g. Rwanda in 1994 and the ongoing genocidal war in Sudan just to name a few cases (Maduagwu,2009).

Ishay, (2004: 366) was expansive and elaborate in his argument. He maintained that:

For the invocation of cultural rights tends to occur when a specific group feels deprived of political, social and economic rights enjoyed by others. The human rights debate is not sufficiently well informed by this history, and three historical misconceptions continue to confuse this debate. The first is the tendency to lump together second and third generation rights. The second is the effort to collapse first and second generation rights into a single Western perspective. The third is rooted in ignorance of the Western roots of third generation rights. Fusing socialist and cultural rights views (or second and third generation rights) into one philosophical tradition, as implied by the language of the International Covenant of Social, Cultural and Economic Rights legal document overlooks important differences that exist between these two traditions of human rights. For instance, second generation socialists have long criticized the third generation conception of group rights to self-determination. Indeed, the notion of the right to self-determination, as defined by various international bills of rights, fails to

specify which nationality or group should end up being favored over another when their claims conflict. Given the abuses that have occurred in the name of national and cultural rights since the end of the Cold War, contemporary human rights advocates would profit from familiarity with criteria offered by late 19th and early 20th century socialists for distinguishing between legitimate and illegitimate claims on behalf of groups.

The philosophical objection asserts essentially that nothing can be universal; that all rights and values are defined and limited by cultural perceptions. If there is no universal culture, there can be no universal human rights (Tharoor, 1999/2000). On the other hand, some rights in the Universal Declaration are not universally favoured and may meet cultural resistance. I cannot conclude that freedom of expression is universally accepted or even acceptable, I am not confident even about freedom of conscience and religion. Equality is not yet universally welcomed, and discrimination on grounds of race, ethnicity will be difficult to eradicate.

The world has moved but it has not yet moved far enough. Some rights, on the other hand – freedom of expression, religious and ethnic equality, and the equality of women – appear not yet acceptable in fact in a number of societies. In that sense, those rights are not yet universal. I do not think that it is possible to make them universal, but it will take dedicated effort by those who care (Henkin, 1989: 15). Tharoor (1999/2000) taking the argument further and drawing largely from the opinions of other critics maintained that:

Recently, the fiftieth anniversary of the Universal Declaration was celebrated with much fanfare. But critics from countries that were still colonies in 1948 suggest that its provisions reflect the ethnocentric bias of the time. They go on to argue that the concept of human rights is really a cover for Western interventionism in the affairs of the developing world, and that "human rights" are merely an instrument of Western political neo-colonialism. One critic in the 1970s wrote of his fear that "Human Rights might turn out to be a Trojan horse, surreptitiously introduced into other civilisations, which will then be obliged to accept those ways of living, thinking and feeling for which Human Rights is the proper solution in cases of conflict." In practice, this argument tends to be as much about development as about civilisational integrity. Critics argue that the developing countries often cannot afford human rights, since the tasks of nation building, economic development, and the consolidation of the state structure to these ends are still unfinished. Authoritarianism, they argue, is more efficient in promoting development and economic growth. This is the

premise behind the so-called Asian values case, which attributes the economic growth of Southeast Asia to the Confucian virtues of obedience, order, and respect for authority. The argument is even a little more subtle than that, because the suspension or limiting of human rights is also portrayed as the sacrifice of the few for the benefit of the many. The human rights concept is understood, applied, and argued over only, critics say, by a small Westernised minority in developing countries. Universality in these circumstances would be the universality of the privileged. Human right is for the few who have the concerns of Westerners; it does not extend to the lowest rungs of the ladder.

In reality, many of the current objections to the universality of human rights reflect a false opposition between the primacy of the individual and the paramountcy of society. Many of the civil and political rights protect groups, while many of the social and economic rights protect individuals. Thus, crucially, the two sets of rights, and the two covenants that codify them, are like Siamese twins—inseparable and interdependent, sustaining and nourishing each other. Still, while the conflict between group rights and individual rights may not be inevitable, it would be naïve to pretend that conflict would never occur. But while groups may collectively exercise rights, the individuals within them should also be permitted the exercise of their rights within the group, rights that the group may not infringe upon (Tharoor, 1999/2000).

Kofi Annan giving a wise counsel on the controversy, asked at a speech in Tehran University in 1997: “When have you heard a free voice demand an end to freedom? Where have you heard a slave argue for slavery? When have you heard a victim of torture endorse the ways of the torturer? Where have you heard the tolerant cry out for intolerance?” Tolerance and mercy have always, and in all cultures, been ideals of government rule and human behavior. If we do not unequivocally assert the universality of the rights that oppressive governments abuse, and if we admit that these rights can be diluted and changed, ultimately we risk giving oppressive governments an intellectual justification for the morally indefensible. Objections to the applicability of international human rights standards have all too frequently been voiced by authoritarian rulers and power elites to rationalize their violations of human rights—violations that serve primarily, if not solely, to sustain them in power.

SELF-ASSESSMENT EXERCISE

Examine the controversies of the Universality of Human Rights.

4.0 CONCLUSION

The Universal Declaration of Human Rights (UDHR) upholds the right to equality, freedom and dignity of all human beings, regardless of their condition, opinions or beliefs. Notwithstanding, ever since this proclamation in 1948, human rights have been subject to speculation as to whether such rights can indeed be truly universal. Although human rights are embodied in treaties drafted within the framework of the United Nations, the issue at hand is whether their validity is based on universal, ethical, moral or religious convictions. One of the most intense debates within the human rights community is the one pitting Universalists against cultural relativists. The growing consensus in the West that human rights are universal has been fiercely opposed by critics in other parts of the world. Beyond the more general, philosophical question of whether anything in our pluri-cultural, multipolar world is truly universal. If we do not unequivocally assert the universality of the rights that oppressive governments abuse, and if we admit that these rights can be diluted and changed, ultimately we risk giving oppressive governments an intellectual justification for the morally indefensible.

5.0 SUMMARY

This unit examined the place of Universalism and Human Rights and outlines the controversies surrounding the Universality of Human Right. It raised all the various arguments and viewed them on their merit.

6.0 TUTOR-MARKED ASSIGNMENT

1. Examine the controversy surrounding the Universality of Human Rights.
2. Outline the various arguments.

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UNIT 2 HUMAN RIGHTS AND REFUGEES: INTERNATIONAL (MULTILATERAL) INSTRUMENTS ON REFUGEES- CHARTERS, CONVENTION AND AGREEMENTS

CONTENTS

1.0 INTRODUCTION

The problem of the world's refugees and internally displaced people is one of the most complicated and increasingly alarming issues that the international community has ever faced (Thessismun, 2012: 4). Refugees are among the most vulnerable people in the world (Guterres, 2011: i). The realities of conflict, violence and persecution continue to cause displacement (UNHCR, 2011: 2). The definition of a refugee at our times, the rights of refugees and internally displaced people recognised under international law, the mandate of humanitarian organisations, the responsibilities of states when it comes to the protection of those vulnerable groups and many other issues that arise from the aforementioned are always in the UN Agenda. The matter is always of extreme importance due to the cruelties in terms of human rights norms and their violations that unfortunately are taking place in many parts of the world that are forcing people to leave their places of origin and seek a better future in other states (Thessismun, 2012: 4). The first appearance of refugees as a mass phenomenon took place at the end of World War I, when the fall of the Russian, Austro-Hungarian, and Ottoman empires, along with the new order created by the peace treaties, upset profoundly the demographic and territorial constitution of Central Eastern Europe. In a short period, 1.5

million White Russians, seven hundred thousand Armenians, five hundred thousand Bulgarians, a million Greeks, and hundreds of thousands of Germans, Hungarians, and Romanians left their countries (Agamben, 2008: 91).

To these moving masses, one needs to add the explosive situation determined by the fact that about 30 percent of the population in the new states created by the peace treaties on the model of the nation-state (Yugoslavia and Czechoslovakia, for example), was constituted by minorities that had to be safeguarded by a series of international treaties – the so-called Minority Treaties – which very often were not enforced. A few years later, the racial laws in Germany and the civil war in Spain dispersed throughout Europe a new and important contingent of refugees (Agamben, 2008: 91). The recent events in the Arab world as well as the deterioration of the situation in the Horn of Africa have caused and increased people's movement that is challenging the states' migrants' admission and asylum system. At the same time, political turmoil in many Asian states and especially in the Middle East as well as financial and social instability is also contributing in the deterioration of the situation concerning the refugees' protection regime (Thessismun, 2012: 4). The refugee situation has become a classic example of the interdependence of the international community. It fully demonstrates how the problems of one country can have immediate consequences for other countries. It is also an example of interdependence between issues (Fact Sheet, 20). Due to the phenomenon of globalization, the problems of one country can have immediate consequences to others. Thus, the refugee problem is both multidimensional and global (Thessismun, 2012: 4).

One of the 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 must be addressed in the context of international cooperation and burden-sharing. This notion first came into existence after the First World War, under the League of Nations which was called upon to deal with successive waves of refugees. It was further developed and strengthened after the Second World War through continuing action undertaken by the United Nations to address numerous refugee situations in all regions of the world. Such refugee situations remain a tragic feature of our troubled times.

International cooperation in dealing with refugee problems presupposes collective action by governments in working out appropriate durable solutions for refugees (Ogata, ND :5).

Until an appropriate durable solution is found for them and refugees cease to be refugees either through voluntary repatriation or legal integration (naturalisation) in their new home country, it is necessary for them to be treated in accordance with internationally recognised basic minimum standards. The formulation and further developments of these standards - and efforts to ensure that they are effectively implemented - have from the outset been an essential component of the collective international approach to the refugee problem. These standards are defined in a series of international instruments (conventions, resolutions, recommendations, etc), adopted at the universal level under the United Nations, or within the framework of regional organisations such as the Council of Europe, the Organisation of African Unity (now African Union (AU) and the Organisation of American States. In order to ensure their more effective implementation, many of these standards have been incorporated into the national law of a growing number of countries (Ogata, ND: 5).

Throughout the world and over the centuries, societies have welcomed frightened, weary strangers, the victims of persecution and violence. This humanitarian tradition of offering sanctuary is often now played out on television screens across the globe as war and large-scale persecution produce millions of refugees and internally displaced persons (IPU, 2001:1). Yet even as people continue to flee from threats to their lives and freedom, governments are, for many reasons, finding it increasingly difficult to reconcile their humanitarian impulses and obligations with their domestic needs and political realities. At the start of the 21st century, protecting refugees means maintaining solidarity with the world’s most threatened, while finding answers to the challenges confronting the international system that was created to do just that (IPU, 2001:1). The problem of the world's refugees and internally displaced is among the most complicated issues before the world community today (fact sheet, 20). In the aftermath of World War I (1914 - 1918) millions of people fled their homelands in search of refuge. Governments responded by drawing up a set of international agreements to provide travel documents for these people who were, effectively, the first refugees of the 20th century. Their numbers increased dramatically during and after World War II (1939-1945), as millions more were forcibly displaced, deported and/or resettled (UNHCR, 2011: 1).

The Convention was a landmark in the setting of standards for the treatment of refugees. It incorporated the fundamental concepts of the refugee protection regime and has continued to remain the cornerstone of that regime to the present day. On 28 July 1951, when the Convention was originally adopted, it was to deal with the aftermath of World War II in

Europe even as the Cold War set in. The inspiration for the Convention was the strong global commitment to ensuring that the displacement and trauma caused by the persecution and destruction of the war years would not be repeated (Lubbers and Johnsson, 2001: 1). But during the decades that followed, it globalised, and the 1967 Protocol expanded the scope of the Convention as the problem of displacement spread around the world. In these origins lies the Convention's avowedly humanitarian character which ensures that its fundamental concepts remain intrinsically sound (Lubbers and Johnsson, 2001: 1).

Throughout the 20th century, the international community steadily assembled a set of guidelines, laws and conventions to ensure the adequate treatment of refugees and protect their human rights. The process began under the League of Nations in 1921. In July 1951, a diplomatic conference in Geneva adopted the Convention relating to the Status of Refugees (1951 Convention), which was later amended by the 1967 Protocol (UNHCR, 2011: 1). These documents clearly spell out who is a refugee and the kind of legal protection, other assistance and social rights a refugee is entitled to receive. It also defines a refugee's obligations to host countries and specifies certain categories of people, such as war criminals, who do not qualify for refugee status. Initially, the 1951 Convention was more or less limited to protecting European refugees in the aftermath of World War II, but the 1967 Protocol expanded its scope as the problem of displacement spread around the world (UNHCR, 2011: 1).

If the Convention is being challenged in a number of important ways, it has, though, proved its resilience. This is because the 1951 Convention has a legal, political and ethical significance that goes well beyond its specific terms: legal in that it provides the basic standards on which principled action can be based; political, in that it provides a truly universal framework within which States can co-operate and share the responsibility resulting from forced displacement; and ethical in that it is a unique declaration by those 141 States which currently are Parties to it of their commitment to uphold and protect the rights of some of the most vulnerable and disadvantaged people (Lubbers and Johnsson, 2001: 1).

This treaty is split into 6 chapters that cover the topics, general provisions regarding refugees, juridical status of refugees, the right to gainful employment, welfare, administrative measures to be taken by the host state, executory and transitory provisions, and final clauses. Each chapter is made of articles and within these the rights of refugees were enumerated (Steadman, 2015: 5). These instruments have also helped inspire important regional instruments such as the 1969 OAU Refugee Convention in Africa,

the 1984 Cartagena Declaration in Latin America and the development of a common asylum system in the European Union. Today, the 1951 Convention and 1967 Protocol together remain the cornerstone of refugee protection, and their provisions are as relevant now as when they were drafted (UNHCR, 2011: 1).

Although the 1951 Convention is still the most widespread and important instrument on the issue of refugees, the causes of exodus have significantly multiplied the past years and now include natural or ecological disasters, extreme poverty and famine and many others (Thessismun, 2012: 5). The Convention does not cover the cases of internal displacement although these cases are countless and call for an immediate action nowadays (Thessismun, 2012: 5). The *raison d'etre* of international law/ rules that seek to protect migrants and refugees is that they are persons who require special protection due to their vulnerability being outside the jurisdiction of the state of their nationality. Thus, international law/ rules provide a dual form of protection for migrants and refugees: (i) general protection under human rights treaties applicable to all persons and (ii) specific protection applicable to particular categories of persons (in this case migrants and refugees) (Grech, ND: 41). States may not, in any circumstance, return a person who is a refugee or claims to be a refugee, to the country from which she or he is fleeing. Most importantly, the UNHCR has affirmed that the principle of *non-refoulement* constitutes a norm of customary international law and is thus obligatory for all states, not simply for states who are parties to the Refugee Convention. The Convention, in Article 31, also stipulates that refugees may not be punished, "on account of illegal entry or presence...provided they present themselves ...to the authorities and show good cause for their illegal entry..." (Grech, ND: 41).

One of the key concerns in terms of how states deal with influxes of persons claiming refugee status relates to policies of mandatory detention of any person entering the state irregularly. This policy has been adopted by a number of states and thus it should be scrutinised against the rules of international law. The Refugee Convention clearly provides that restrictions on the movement of refugees shall be limited to only those that "are necessary" and "such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country" (Grech, ND: 42). The rights given in the convention were not extended to those who were deemed to be against the United Nation's principles and this includes committing crimes against humanity, war crimes, crimes against peace, or serious non-political crimes. One topic central to the convention was the prevention of the process called *refoulement*. *Refoulement* is the deportation of asylum seekers, sending them back to

their original country when they still are in danger (the convention). Non-*refoulement* is the refugees' right not to be returned to persecution, either in their country of origin or in other countries in which they would be at risk.

This right mirrors an obligation for States to refrain from being instrumental to the persecution by other States of their nationals on grounds of race, political opinion, religion, nationality or for membership in a particular social group (Rosero, ND:2).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- describe refugees and other related concepts and trace the nexus between refugees and Hunan Right
- highlight the linkage between the United Nations, Refugees and Human Right
- discuss the extent of Refugees protection
- identify and explain the international instruments on refugees
- make distinction between the two major conventions, enumerate the state parties and identify those not covered by the convention
- state the regional laws
- examine the mandate of United Nations High Commissioner for Refugees (UNHCR) and persons of concern to UNHCR

3.0 MAIN CONTENT

3.1 Human Rights and Refugees Related Concepts on Refugees

Refugee:
The 1951 Refugee Convention describes refugees as people who are outside their country of nationality or habitual residence, and have a well-founded fear of persecution because of their race, religion, nationality, membership of a particular social group or political opinion. People fleeing conflicts or generalised violence are also generally considered as refugees, although sometimes under legal mechanisms other than the 1951 Convention.

Asylum seekers: Someone who has made a claim that he or she is a refugee, and is waiting for that claim to be accepted or rejected. The term contains no presumption either way - it simply describes the fact that

someone has lodged the claim. Some asylum seekers will be judged to be refugees and others will not.

Migrant: A wide-ranging term that covers most people who move to a foreign country for a variety of reasons and for a certain length of time (usually a minimum of a year, so as not to include very temporary visitors such as tourists, people on business visits, etc). This is different from "immigrant" which means someone who takes up permanent residence in a country other than his or her original home land.

Economic migrant: Someone who leaves their country of origin for financial reasons, rather than for refugee ones.

Internally Displace Persons (IDPs): Someone who has been forced to move from his or her home because of conflict, persecution (i.e. refugee like reasons) or because of a natural disaster or some other unusual circumstance of this type. Unlike refugees, however, IDPs remain inside their own country.

Stateless person: Someone who is not considered as a national by any state (de jure stateless); or possibly someone who does not enjoy fundamental rights enjoyed by other nationals in their home state (de facto stateless). Statelessness can be a personal disaster:

Refugee

Refugees have been around for as long as history (Feller, 2001: 584). The magnitude and complexity of the issues arising from the flow of asylum seekers and refugees globally poses huge challenges for the world's destination countries (Phillips, 2011: 1). Forcibly displaced people globally are categorized as being either internally displaced, asylum seeking, or a refugee (Steadman, 2015: 2). A Refugee is someone who "owing to a 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 to or, owing to such fear, is unwilling to avail himself of the protection of that country..." (UNHCR, 2008). The refugee status is also called *asylum*. A person who leaves his country under the abovementioned circumstances and enters a foreign country is called an *asylum seeker*. He requests refuge from the foreign country and he is granted the status of refugee, the asylum, with all the special rights and obligations that follow this status, from the moment that the request is accepted (Thessismun, 2012: 6). Therefore, three elements compose the term refugee:

a. A refugee is outside his/her country of nationality or residence;
b. He/she has a fear of persecution because of his/her race, religion, nationality, membership in a particular social group or political opinion
c. He/she is unable or unwilling to return to his/her home country because of their well founded fear (Thessismun, 2012: 6).

When the Office of the United Nations High Commissioner for Refugees (UNHCR) was established in 1951, there were approximately 1.5 million refugees internationally (McMaster , 2001:9). At the end of 2009 there were an estimated 43.3 million forcibly displaced people worldwide, including 15.2 million refugees, 983 000 asylum seekers and 27.1 million internally displaced persons (IDPs). It is estimated that there were an additional 25 million people displaced due to natural disasters) (UNHCR, 2009:1). The United Nations system has also been very concerned by the rise in the number of mass internal displacements in recent years (fact sheet, 20). Internally displaced persons (IDPs) are often wrongly called refugees. Unlike refugees, IDPs have not crossed an international border to find sanctuary but have remained inside their home countries. Even if they have fled for similar reasons as refugees (armed conflict, generalised violence, human rights violations), IDPs legally remain under the protection of their own government — even though that government might be the cause of their flight. As citizens, they retain all of their rights and protection under both human rights and international humanitarian law (UNHCR, 2008). Since they remain inside their own countries, these persons are excluded from the present system of refugee protection (fact sheet, 20).

UNHCR's original mandate does not specifically cover IDPs (UNHCR, 2008). Most of the internally displaced populations are in developing countries and are composed largely of women and children. In some countries, the internally displaced make up more than 10 per cent of the population (fact sheet, 20). To begin to appreciate the scale of humanitarian need underlying the work of international refugee protection, it is enough to look at refugee statistics showing that UNHCR has responsibility for some 22 million persons in 160 countries, of which the majority are women, children and the elderly (Feller, 2001: 581). According to the United Nations' High Commissioner for Refugees there are 51 million forcibly displaced people worldwide, all of whom have been uprooted from their homes and must seek asylum elsewhere. This is the most since the end of the Second World War over seventy years ago. Such numbers testify to the several problems of internal warfare and armed conflict in countries as diverse as Afghanistan, Central African Republic, Democratic Republic of

Congo, Colombia, Iraq, Libya, Myanmar, South Sudan, Sudan and Syria (Steadman, 2015: 1).

United Nations, Human Rights and Refugees: The Nexus

Being a refugee means more than being an alien. It means living in exile and depending on others for such basic needs as food, clothing and shelter. While some mass displacements may be preventable, none are voluntary (fact sheet 20: 1). Not all human movements of the century have been voluntary. Modern technology has also brought about the development of weapons of mass destruction. As a result, violence has become the greatest factor in instigating involuntary departures from homelands. Two World Wars and some 130 armed conflicts since 1945 have given rise to millions of mass displacements and exoduses in the world (fact sheet 20: 2). The world community today confronts a huge flow of … refugees across the international border (Khanal, 1998: 144).

The problem of the world's refugees and internally displaced is among the most complicated issues before the world community today. Much discussion is taking place at the United Nations as it continues to search for more effective ways to protect and assist these particularly vulnerable groups (Fact sheet 20: 1). The refugee protection regime, within which the United Nations High Commissioner for Refugees discharges his mandated functions, has its origins in general principles of human rights (Feller, 2001: 582). A central practice to the United Nations is the protection of humanitarian rights. Article 14 of the Universal Declaration of Human Rights of 1948 it reads “Everyone has the right to seek and to enjoy in other countries asylum from persecution (Human Right Charter),” and from this declaration the United Nations’ commitment to the protection and assistance of refugees, displaced persons, and asylum seekers began (Steadman, 2015: 1).

Those who drafted the Charter of the United Nations had in mind the painful memories of generalised violence and mass sufferings and called upon its signatories to save succeeding generations from the scourge of war. . .". They asked the United Nations to help achieve "international cooperation in solving international problems of an economic, social, cultural, or humanitarian character" and to promote and encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion". One of the first issues on the agenda of the United Nations was the fate of refugees, displaced persons, stateless persons and "returnees," all uprooted by war and in need of assistance. The problem was clearly both international and humanitarian (Fact Sheet 20: 2).

These displaced people are the inevitable result from any armed conflict, large scale natural disaster, or oppressive government. These people have largely no voice, and the United Nations and its member states are tasked with protecting their basic rights (Steadman, 2015: 2).

There is a clear relationship between the refugee problem and the issue of human rights. Violations of human rights are not only among the major causes of mass exoduses but also rule out the option of voluntary repatriation for as long as they persist. Violations of rights of minorities and ethnic conflicts are increasingly at the source of both mass exoduses and internal displacements (Fact sheet, 20). Asylum seekers and refugees are entitled to all the rights and fundamental freedoms that are spelled out in international human rights instruments. The protection of the refugee must therefore be seen in the broader context of the protection of human rights (Fact sheet, 20). The creation by States, in the aftermath of the Second World War, of two separate organisations to deal with human rights and refugees respectively, does not mean that these issues are not interrelated.

The work of the United Nations in the field of human rights and that of the High Commissioner for Refugees is inextricably linked in the sense that both entities share a common purpose which is the safeguarding of human dignity. The human rights programme of the United Nations deals with the rights of individuals in the territory of States. The refugee organisation was established in order to restore minimum rights to persons after they leave their countries of origin (Fact sheet, 20). The right to a country of one's own i.e., "to belong to a sovereign state" is considered to be the most "primordial right" of a person (Stoessinger, 1956).

In 1951 most of the refugees were European. The majority of today's refugees are from Africa and Asia. Current refugee movements, unlike those of the past, increasingly take the form of mass exoduses rather than individual flights. Eighty per cent of today's refugees are women and children (Fact sheet, 20). Global forced displacement of people due to conflict, persecution, violence and human rights violations is on the rise.

The current refugee crisis has resulted in the displacement of an unprecedented number of people. The United Nations estimates that more people have been displaced in the last two years than at any time since World War II. With record-breaking numbers of displaced people seeking passage to safe refuge, refugee smuggling has become a more lucrative and sinister operation than ever before (OECD, 2015: 1).

Broadly speaking, the flow of refugees in the post – cold war era may be attributed to several factors, often called as "new Humanitarian crises" (UNHCR, 1995). The first category may be found in the formerly communist states like former Yugoslavia and CIS countries where the states have broken up. The concomitant struggle for power and territory amongst warring parties took the form of "ethnic cleansing". Secondly, in Africa, countries like Somalia, Liberia, Rwanda, etc. "existing political and administrative structures have been destroyed, society has fragmented and power has passed into the hands of local war lords and military leaders".

Thirdly, in Asia, the countries like Myanmar, Bhutan, etc. the refugee flows have been provoked "not by the break – up of countries, but by efforts to impose the authority of his state on minority groups, opposition movements and secessionist forces". As a result, the beginning of 1990s witnessed the staggering growth of refugees reaching up to 19 million and more in 1993 (Ghali, 1993: 173 cited in Khanal, 1998: 145).

The very existence of a state essentially lies in the realisation of this right as well as the general well- being of its people. People living within the state are entitled to fair and equal treatment irrespective of their race, religion, language or belief. The notion of human rights underlies the principle that "every human being is entitled to enjoy or to have protected" certain rights which exist" in some form in all cultures and societies" that should be respected in the treatment of all men, women and children" (UNCHR, 1994:11). Throughout history, human beings have ceaselessly struggled for the attainment of such basic rights and have made many positive achievements. The United Nations High commission for refugees (UNHCR), formed in 1951, had to look after about 2 million refugees. The number of refugees was recorded 2.8 million, Ever since the number has increased manifold. In 1980 it crossed 8 million and by another six years 4 million more were added to it. The end of cold war not only accelerated the number of refugees but also changed the "refugees producing situation". i.e. states splitting bloodily " along historical and ethnic lines" (Department of Public Information, 1995). The causes of exodus have also multiplied and now include natural or ecological disasters and extreme poverty. As a result, many of today's refugees do not fit the definition contained in the Convention relating to the Status of Refugees. This refers to victims of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion (Fact Sheet, 20).

The United Nations High Commissioner for Refugees (UNHCR) estimated that 13.9 million individuals were newly displaced due to conflict or persecution in 2014. This includes 11 million persons newly displaced

within the borders of their own country, the highest figure on record. The other 2.9 million individuals were new refugees (UNHCR, 2014 quoted in OECD, 2015: 6). This translates to 42,500 individuals leaving their homes per day due to conflict and persecution, a four-fold increase from 2010. In 2013, 32,200 people were displaced on average per day, 23,400 in 2012, 14,200 in 2011, and 10,900 in 2010. At present, a total of 59.5 million people have been forcibly displaced worldwide. The UNHCR reported an increase in displaced populations in every region in the world. Worldwide, the five countries hosting the largest refugee populations are Turkey (1.59 million refugees), Pakistan (1.51 million), Lebanon (1.15 million), Iran (982,000) and Ethiopia (659,500). As wars and conflicts continue and sometimes worsen, the global refugee crisis is likely to deepen (OECD, 2015: 6). Most of the world's refugees do not leave their regions of origin. At the end of 2013, the countries hosting the largest numbers of refugees were: Pakistan, Iran, Lebanon, Jordan, Turkey, Kenya, Chad, Ethiopia, China and the USA (UNHCR, 2014).

The principle of *non-refoulement* is enshrined in Article 33:

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country (EU, 2015: 21).

The UNHCR has recurrently recalled the central importance, nature and customary status of the principle of *non-refoulement* set out in Article 33. As it noted in 2001, the obligation of States not to expel, return or *refoule* refugees to territories where their life or freedom would be threatened is a cardinal protection principle enshrined in the Convention, to which no reservations are permitted. In many ways, the principle is the logical complement to the right to seek asylum recognised in the (UDHR). It has come to be considered a rule of customary international law binding on all States. In addition, international human rights law has established non *refoulement* as a fundamental component of the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment. The duty not to *refoule* is also recognised as applying to refugees (EU, 2015: 21).

Statelessness and Human Right

A stateless person is someone who is not considered to be a national by any State under the operation of its law. Nationality is a status from which other rights derive. He/she may be, but is not necessarily, a refugee. There are millions of stateless persons around the world (Inter parliamentary Union, 2001: 25). The problem of statelessness is widespread in certain parts of the world and may be particularly acute among children of parents of mixed origin, or who are born in a country other than their parents' country of origin, since they do not necessarily gain citizenship of the place where they are born. Like refugees, stateless persons may be compelled to move because they cannot receive adequate protection (Inter parliamentary Union, 2001: 25). Statelessness, the condition of not being a national from any State, is one of the most serious but unknown violations of Human Rights (Buitrago, 2011: 7).

However, doctrine has established two different kinds of statelessness: de jure (in law) and de facto (in practice). The first kind is the one contained in the first article of the Convention, this is, people who are legally stateless, who are not recognised as a national by any State. However, the second kind of statelessness is much more difficult to identify (Buitrago, 2011: 10). Goris, Harrington and Köhn (quoted in Buitrago, 2011: 10) define de facto stateless people as "people who have not been formally denied or deprived of nationality but who lack the ability to prove their nationality or, despite documentation, are denied access to many human rights that other citizens enjoy. These people may be de facto stateless – that is, stateless in practice, if not in law –or cannot rely on the state of which they are citizens for protection" The UNHCR considers that the distinction between *de jure* and *de facto* statelessness is that de jure stateless people are not considered as nationals under the laws of any country, while de facto statelessness occurs when a person formally possesses a nationality, but the nationality is ineffective.

The Two Primary International Conventions on Statelessness

The 1954 Convention relating to the Status of Stateless Persons

It helps regulate and improve the status of stateless persons and helps ensure that stateless persons enjoy fundamental rights and freedoms without discrimination.

The 1961 Convention on the Reduction of Statelessness

Defines ways in which persons who would otherwise be stateless can acquire or retain nationality through an established link with a State through birth or descent. The Convention covers such issues as the granting of nationality, the loss or renunciation of nationality, deprivation of nationality and transfer of territory. Retention of nationality, once acquired, is also emphasized. Accession to the 1954 Convention provides stateless persons with many of the rights necessary to live a stable life. Accession to the 1961 Convention helps resolve many problems which result in statelessness. It also serves as a reference point for national legislation (IPU. 2001: 25).

Internally Displaced Persons (IDPs) and Human Rights

United Nations Guiding Principles on Internal Displacement views IDPs as Internally displaced persons as persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human made disasters, and who have not crossed an internationally recognised State border**.**

Globally, an estimated 20-25 million persons live displaced within the borders of their home countries. These are people who have fled their homes, often during a civil war, but have not sought refuge in other nations. In general, internally displaced persons have many of the same protection needs as refugees but, since they have not crossed an international border, they are not covered by the Refugee Convention or by UNHCR's Statute (IPU. 2001: 26).

International concern for the plight of internally displaced persons has acquired a degree of urgency in recent years as greater numbers of people, uprooted by internal conflict and violence, are exposed to danger and death. However, there is no single international agency, nor is there an international treaty, that focuses on internal displacement. As a result, the international response to internal displacement has been selective, uneven and, in many cases, inadequate. Large numbers of internally displaced persons receive no humanitarian assistance or protection at all. The international community is now exploring ways to provide more sustained and comprehensive protection and assistance to this group of people (IPU. 2001: 26).

Refugees Protection

Until the 20th century there were no universal standards for the protection of refugees. Efforts to protect and assist them were essentially localised and ad hoc in nature. The first international co-ordination on the issue of refugees came with the League of Nations which appointed a number of High Commissioners, but none of them developed into a long-standing arrangement (Thessismun, 2012: 4). After the World War II the problem has taken new dimension especially in Europe and the aggravation was calling for a more durable solution. The solution given by the United Nations was the 1951 Convention relating to the Status of Refugees and the United Nations High Commissioner for refugees (UNHCR) that were both introduced to deal with the problem of refugees within Europe resulting from the war (Thessismun, 2012: 4). The refugee protection regime, within which the United Nations High Commissioner for Refugees discharges his mandated functions, has its origins in general principles of human rights. At the same time, it is firmly founded on treaty and customary law obligations, particularly those flowing from the 1951 Convention and its 1967 Protocol, and also draws on principles and standards articulated in other international instruments or through court processes in a variety of jurisdictions (Feller, 2001: 582).

The world has been undergoing significant transformations which pose serious challenges to the capacity of States to respond to contemporary displacement situations. The recurring cycles of violence and systematic human rights violations in many parts of the world are generating more and more intractable displacement situations. The changing nature of armed conflict and patterns of displacement and serious apprehensions about "uncontrolled" migration in this era of globalisation are increasingly part of the environment in which refugee protection has to be realised (Lubbers and Johnsson, 2001: 1). Trafficking and smuggling of people, abuse of asylum procedures and difficulties in dealing with unsuccessful asylum-seekers are additional compounding factors. Asylum countries in many parts of the world are concerned about the lack of resolution of certain long-standing refugee problems, urban refugee issues and irregular migration, a perceived imbalance in burden- and responsibility-sharing, and increasing costs of hosting refugees and asylum-seekers (Lubbers and Johnsson, 2001: 1).

States are responsible for protecting the fundamental human rights of their citizens. When they are unable or unwilling to do so – often for political reasons or based on discrimination – individuals may suffer such serious violations of their human rights that they have to leave their homes, their

families and their communities to find sanctuary in another country. Since, by definition, refugees are not protected by their own governments, the international community steps in to ensure they are safe and protected. Refugee protection remains urgently needed by those forced to leave their countries (UNHCR, 2011: 2). Strengthening the rights, capacities and democratic participation of these communities—refugees, the forcibly displaced, the conflict-affected, the stateless and those suffering violent discrimination on the basis of their political status—is essential to building just, peaceful and flourishing states and communities (International Refugee Rights Initiative, 2015: 1).

The key to the issue is the word "protection" which is known not to be limited to survival and physical security but also to cover the full range of rights, including civil and political rights, such as the right to freedom of movement, the right to political participation, and economic, social and cultural rights, including the rights to education and health. Protection is both a legal responsibility- principally of the State and its agents and an obligation to take the following 3 actions: i) responsive action- in order to prevent or stop violations of rights against those vulnerable groups; ii) remedial action - as an activity of ensuring a remedy to violations, including through access to justice and reparations; and iii) environment-building, which aims at promoting respect for the rights of every individual and the rule of law (Thessismun, 2012: 4).

UNHCR is mandated by the United Nations General Assembly to seek international protection and permanent solutions for refugees. It also has the responsibility to supervise the implementation of the 1951 Convention by States Parties. States Parties are required to cooperate with UNHCR, and provide relevant information and statistical data (UNHCR, 2011: 6).
UNHCR's role complements that of States, contributing to the protection of refugees by:

- Promoting accession to, and implementation of, refugee conventions and laws;
- Ensuring that refugees are treated in accordance with internationally recognized legal standards;
- Ensuring that refugees are granted asylum and are not forcibly returned to the countries from which they have fled;
- Promoting appropriate procedures to determine whether or not a person is a refugee according to the 1951 Convention definition and/or to other definitions found in regional conventions; and seeking durable solutions for refugees (UNHCR, 2011: 6).

3.2 Conventions

Refugees and other displaced people have rights under customary international law and a number of international conventions (OECD, 2015:1). A refugee is a particular type of migrant who leaves his or her country of nationality for very specific reasons. The most relevant international law treaties in this respect are the Convention Relating to the Status of Refugees (the Refugee Convention) of 1951 and the Protocol Relating to the Status of Refugees of 1967. The Refugee Convention fundamentally does two things: it defines the term refugee and it establishes the rights of refugees under international law. The notion of persecution is a particularly poignant one as it underscores the reason why refugees require special protection. Within this context, the most important right granted to refugees under the Convention is the right not to be returned to the country from which they have fled. This is known as the principle of non-*refoulement* (Grech, ND: 41).

Fact Sheet (20: 2) gave other Conventions and Declarations and international instruments, some of which are mentioned below, contain provisions which may be relevant to refugees. They are:

- The 1949 Fourth Geneva Convention Relative to the Protection of Civilian Persons in time of War: article 44 of this Convention, whose aim is the protection of civilian victims, deals with refugees and displaced persons. Article 73 of the *1977 Additional Protocol* stipulates that refugees and stateless persons shall be protected persons under parts I and III of the Fourth Geneva Convention;
- The 1954 Convention relating to the Status of Stateless Persons: defines the term "stateless person" as a person who is not considered as a national by any State under the operation of its law. It further prescribes the standards of treatment to be accorded to stateless persons;
- The 1961 Convention on the Reduction of Statelessness: a State party to this Convention grant its nationality to a person born in its territory who would otherwise be stateless. The State also agrees, subject to certain conditions, not to deprive a person of his nationality if such deprivation would render him stateless. The Convention specifies that a person or groups of persons shall not be deprived of their nationality on racial, ethnic, religious or political grounds;
- The 1967 United Nations Declaration on Territorial Asylum: this Declaration of the United Nations General Assembly lays down a series of fundamental principles in regard to territorial asylum. It

states that the granting of territorial asylum "is a peaceful and humanitarian act and that, as such, it cannot be regarded as unfriendly by any other State." It upholds the basic humanitarian principle of non-*refoulement* and recalls articles 13 and 14 of the Universal Declaration of Human Rights, which spell out, respectively, the right to leave any country and to return to one's country and the right to seek and enjoy asylum.

- **Who is not covered by the Geneva Convention?**

- A person who is suspected due to serious reasons to have committed war crimes, crimes against Humanity or crimes against peace.
- A person who has committed a serious non-political crime outside the country of refuge prior to his admission.
- A person guilty of acts contrary to the principles of the United Nations.
- A person who receives at that time protection and assistance by a UN agency or organ other than the UNHCR (Thessismun, 2012: 8).

States Parties to the 1951 Convention relating to the Status of Refugees and/or the 1967 Protocol 141 as of September 2001 *(Entered into force on 22 April 1954)* (adapted from IPU, 2001:12)

Albania Algeria Angola Antigua and Barbuda Argentina Armenia Australia Austria Azerbaijan Bahamas Belarus Belgium Belize Benin Bolivia Bosnia and Herzegovina Botswana Brazil Bulgaria Burkina Faso Burundi Cambodia Cameroon Canada Cape Verde Central African Republic Chad Chile China (People's Rep. of) Colombia Congo Costa Rica Côte d'Ivoire Croatia Cyprus Czech Republic Democratic Republic of the Congo Denmark Djibouti Dominica Dominican Republic Ecuador Egypt El Salvador Equatorial Guinea Estonia Ethiopia Fiji Finland France Gabon Gambia Georgia Germany Ghana Greece Guatemala Guinea Guinea-Bissau Haiti Holy See Honduras Hungary Iceland Iran (Islamic Republic of) Ireland Israel Italy Jamaica Japan Kazakhstan Kenya Kyrgyzstan Latvia Lesotho Liberia Liechtenstein Lithuania Luxembourg Madagascar Malawi Mali Malta Mauritania Mexico Monaco Morocco Mozambique Namibia Netherlands New Zealand Nicaragua Niger Nigeria Norway Panama Papua New Guinea Paraguay Peru Philippines Poland Portugal Republic of Korea Romania Russian Federation Rwanda Saint Vincent and the Grenadines Samoa Sao Tome and Principe Senegal Seychelles Sierra Leone Slovakia Slovenia Solomon Islands Somalia South Africa Spain Sudan Suriname Swaziland Sweden Switzerland Tajikistan Tanzania (United Republic of) The former Yugoslav Republic of Macedonia Togo Trinidad and Tobago

Tunisia Turkey Turkmenistan Tuvalu Uganda United Kingdom United States of America Uruguay Venezuela Yemen Yugoslavia Zambia Zimbabwe

3.3 Regional Laws and Standards or Instruments

i. 1969 Organisation of African Unity (OAU Now African Union, AU) Convention Governing the Specific Aspects of Refugee Problems in Africa

The conflicts that accompanied the end of the colonial era in Africa led to a succession of large-scale refugee movements. These population displacements prompted the drafting and adoption of not only the 1967 Refugee Protocol but also the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. Asserting that the 1951 Refugee Convention is "the basic and universal instrument relating to the status of refugees", the OAU Convention is, to date, the only legally binding regional refugee treaty. Perhaps the most important portion of the OAU Convention is its definition of a refugee (IPU, 2001: 13). The OAU Convention follows the refugee definition found in the 1951 Convention, but includes a more objectively based consideration: any person compelled to leave his/her country because of "external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality". This means that persons fleeing civil disturbances, widespread violence and war are entitled to claim the status of refugee in States that are parties to this Convention, regardless of whether they have a well-founded fear of persecution (IPU, 2001: 13).

States Parties to the OAU Refugee Convention as of September 2001 (Entered Into Force On 20 June 1974) Adapted From (IPU, 2001: 13)
Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Cote d'Ivoire, Democratic Republic of the Congo, Egypt, Equatorial Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Malawi, Mali, Mauritania, Morocco, Mozambique, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

ii. The Cartagena Declaration

In 1984, a colloquium of government representatives and distinguished Latin American jurists was convened in Cartagena, Colombia to discuss the international protection of refugees in the region. This gathering adopted what became known as the Cartagena Declaration. The Declaration recommends that the definition of a refugee used throughout the Latin American region should include the 1951 Refugee Convention definition and also persons who have fled their country "because their lives, safety or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order" (IPU, 2001: 14). Although the Declaration is not legally binding on States, most Latin American States apply the definition as a matter of practice; some have incorporated the definition into their own national legislation. The Declaration has been endorsed by the Organisation of American States (OAS), the UN General Assembly, and UNHCR's advisory Executive Committee (IPU, 2001: 14).

3.4 The Mandate of United Nations High Commissioner for Refugees (UNHCR)

Refugees have been around for as long as history, but an awareness of the responsibility of the international community to provide protection and find solutions for them dates only from the time of the League of Nations and the appointment of Dr Fridtjof Nansen as the first High Commissioner for Russian refugees in 1921. For the League of Nations, refugees were defined by categories specifically in relation to their country of origin. Dr Nansen's mandate was subsequently extended to other groups of refugees, to include Armenians (1924), as well as Assyrian, Assyro-Chaldean and Turkish refugees (1928) (Feller, 2001: 584). First, the League of Nations and later the United Nations established and dismantled several international institutions devoted to refugees in Europe. The International Refugee Organisation (IRO) was the last to precede UNHCR (Feller, 2001: 584).

The IRO was created in mid-1947 to deal with the problem of refugees in Europe in the aftermath of the Second World War and was to complete its work by mid-1950. It was soon apparent, however, that the comprehensive nature of the task it had been assigned — to address every aspect of the refugee problem (from registration and determination of status, to repatriation, resettlement, and "legal and political protection" — precluded its winding up (Feller, 2001: 584).

In order to protect these vulnerable groups of individuals and control the flow of people, in 1946 the United Nations General Assembly established the International Refugee Organisation (IRO). It received a temporary mandate to register, protect, resettle, and repatriate refugees. For political reasons as resulted by the post-war period, IRO's operations were lacking of funds. In addition, the cost of financing operations was rapidly increasing and its fall was clear. It soon became obvious that United Nations itself should bear this burden. Consequently, discussions about the establishment of a successor organisation began long before the expiration of IRO's mandate (Fact Sheet No.20). The successor of IRO was the well known UNHCR. The United Nations High Commissioner for Refugees was founded in 1949 by the General Assembly of the United Nations (United Nations General Assembly's Resolution 319 A IV) in order to provide assistance to the refugees in Europe after the World War II (Thessismun, 2012: 12).

The United Nations High Commissioner for Refugees (UNHCR) is the U.N. agency dedicated to the protection of refugees and other populations displaced by conflict, famine, and natural disasters (Margesson, Chanlett-Avery and Bruno 2007: 3). UNHCR has been given a mandate to provide international protection to refugees and seek permanent solutions to their problems through its Statute, adopted by the UN General Assembly in December 1950 (IPU, 2005: 22). Its mandate also is to lead and coordinate international action for the protection of refugees and the resolution of refugee problems worldwide. Refugees are granted a special status under international law (Margesson, Chanlett-Avery and Bruno 2007: 3). Once an individual is considered a refugee that individual automatically has certain rights, and states that are parties to the Refugee Convention and its Protocol are obligated to provide certain resources and protection. UNHCR ensures these rights, works to find permanent, long-term solutions for refugees, and coordinates emergency humanitarian relief for refugees and, increasingly, other persons of concern (Margesson, Chanlett-Avery and Bruno 2007: 3).

Over the years, the UN General Assembly has expanded UNHCR's responsibility to include protecting various groups of people who are not covered by the Refugee Convention and Protocol. Some of these people are known as "mandate" refugees; others are returnees, stateless persons and, in some situations, internally displaced persons (IPU, 2001: 22). Enforcement of the Refugee Convention can present challenges. For example, the national laws of a state may not be developed sufficiently to allow full implementation of the provisions of the Refugee Convention. Often becoming a party to the Refugee Convention is a first step and UNHCR serves as an important resource. From UNHCR's point of view,

international law overrides other bilateral agreements, but governments may not agree. UNHCR may try to assist in creating a solution or states may use ad hoc procedures to determine whether an individual has a well-grounded fear of persecution and thus is protected from deportation.

UNHCR often works with governments behind the scenes in asylum cases to push for application of the principles of the Refugee Convention and protection of the rights of the individual, even though there may not be agreement on legal jurisdiction (Margesson, Chanlett-Avery and Bruno 2007: 3). UNHCR's mandate is now, therefore, significantly more extensive than the responsibilities assumed by States Parties to the Refugee Convention and Protocol. One of the challenges facing refugees and countries of asylum today consists of bridging the "protection gap" which exists in situations where UNHCR seeks to protect persons with respect to whom concerned States do not recognise that they have a responsibility under any of the refugee instruments (IPU, 2001: 22).

3.5 Persons of Concern to UNHCR

According to IPU (2001: 22) "Persons of concern to UNHCR" are all persons whose protection and assistance needs are of interest to UNHCR. They include:

- Refugees under the Refugee Convention
- Persons fleeing conflict or serious disturbances of the public order (i.e., refugees under the OAU/AU Convention and Cartagena Declaration definitions)
- Returnees (i.e., former refugees)
- Stateless persons
- Internally displaced persons (in some situations)

UNHCR's authority to act on their behalf is either based on the 1951 Convention, 1967 protocol and the OAU/AU Convention, the Cartagena Declaration, or on UN General Assembly resolutions.

SELF-ASSESSMENT EXERCISE

i. What is the role of United Nations in the protection of Refugees, internally displaced persons and stateless persons?
ii. What are the major international instruments on refugees? How do they operate? Examine the mandates of United Nations High Commissioner for Refugees (UNHCR).

4.0 CONCLUSION

Refugees are among the most vulnerable people in the world. The realities of conflict, violence and persecution continue to cause displacement. The problem of the world's refugees and internally displaced is among the most complicated issues before the world community today. The refugee protection regime, within which the United Nations High Commissioner for Refugees discharges his mandated functions, has its origins in general principles of human rights. The world community today confronts a huge flow of … refugees across the international border.

Until the 20th century there were no universal standards for the protection of refugees. The world has been undergoing significant transformations which pose serious challenges to the capacity of States to respond to contemporary displacement situations. Throughout the 20th century, the international community steadily assembled a set of guidelines, laws and conventions to ensure the adequate treatment of refugees and protect their human rights. The process began under the League of Nations in 1921. In July 1951, a diplomatic conference in Geneva adopted the Convention relating to the Status of Refugees. Initially, the 1951 Convention was more or less limited to protecting European refugees in the aftermath of World War II, but the 1967 Protocol expanded its scope as the problem of displacement spread around the world.

The 1951 Convention is still the most widespread and important instrument on the issue of refugees, the causes of exodus have significantly multiplied the past years and now include natural or ecological disasters, extreme poverty and famine and many others. The *raison d'etre* of international law/ rules that seek to protect migrants and refugees is that they are persons who require special protection due to their vulnerability being outside the jurisdiction of the state of their nationality. The Convention does not cover the cases of internal displacement although these cases are countless and call for an immediate action nowadays.

5.0 SUMMARY

The refugee situation has become a classic example of the interdependence of the international community. It fully demonstrates how the problems of one country can have immediate consequences for other countries. It is also an example of interdependence between issues. Due to the phenomenon of globalisation, the problems of one country can have immediate consequences to others. Thus, the refugee problem is both

multidimensional and global. The fact that the refugee problem is a matter of concern to the international community and must be addressed in the context of international cooperation and burden-sharing is one of the outstanding achievements of the 20th century in the humanitarian field. Beyond the introduction, basic concepts have been highlighted; looking at refugees, the nexus between the United Nations, Human Rights and Refugees was examined. Also examined are other issue areas: Statelessness and Human Right, Internally displaced persons (IDPs) and Human Rights and Refugee Protection.

Search light was directed on the international instruments on refugees. Major instruments considered are the two Major conventions i.e. the 1951 convention and the 1967 protocol. It highlights those not covered by the convention, the Regional laws and standards or Instruments were also reviewed, the mandate of United Nations High Commissioner for Refugees was examined and Persons of concern to UNHCR.

7.0 TUTOR - MARKED ASSIGNMENT

1. Explain briefly the following concepts:
2. a) refugees. b). Statelessness, c). Internally Displaced persons.
3. What is the relationship between United Nations, Human Rights and Refugees?
4. Describe the roles of United Nations in refugee's protection.
5. What are the international instruments for refugee's protection?
6. Make a Distinction between the two major conventions for Refugee protection.
7. Highlight the mandates of United Nations High Commissioner for Refugees (UNHCR).
8. Who are the persons of concern to UNHCR.

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UNIT 3 HUMAN RIGHTS AND POPULATION

CONTENTS

1.0 INTRODUCTION

Global health, population growth, economic development, environmental degradation, and climate change are the main challenges we face in the 21st century (Stephenson *et al*, 2013: 1). Population is a Group of individuals of species occupying a definite geographic area at a given time (Deshmukh, ND: 3). Persistent efforts to control population through family planning programs and improved education facilities helped in controlling population growth and resultantly, the world population growth slowed down. The comparison of population data published by Population Reference Bureau shows that the world population growth rate reduced from 1.4% in 2011 to 1% in 2012. Nevertheless the decreased growth rate added 71 million people in global population, and the total world population crossed the figure of 7 billion at the end of June 2012. Each year the number of human beings is on the rise, but the availability of natural resources, required to sustain this population, to improve the quality of human lives and to eliminate mass poverty remains finite (Pakistan Economic Survey 2012-13: 155).

Globally, birth and death rates have declined over the past several decades and resultantly life expectancy has improved. People are living longer in both industrial and developing countries because of increased access to immunisation, primary health care, and disease eradication programs (Pakistan Economic Survey 2012-13: 155). Population growth rate (PGR) is another important factor used for the projection of population. It reflects the number of births and deaths during the period and the number of people migrating to and from a country. Due to the slowing of birth rates, population growth rates have started to decline in many countries of the world, but it still remain high in those countries where birth rates have not fallen as rapidly as death rates (Pakistan Economic Survey 2012-13: 156).

No other arena of state intervention is more troubled by deep moral and ethical conflict than that of population policy. Not only by the regulations and laws affecting migration and mortality but also more obviously in the area of fertility control, public policy seeks to manipulate and delimit the most basic desires and actions of the individual. Pressures to control the size, growth and distribution of a population may require public officials and administrators to overturn deeply revered social mores; to alter the most basic components of the social matrix – courtship, marriage, child bearing and child rearing. Such efforts may place the state at odds with its conventional role as protector and preserver of cultural tradition (Sharpless, 1986: 2). Moreover, in the name of progress, national welfare and economic development, strident efforts to control population growth may lead to serious human right abuses (Sharpless, 1986: 2). The needs of this huge number of human beings cannot be supported by the Earth's natural resources, without degrading the quality of human life.

2.0 OBJECTIVE

At the end of this unit, you should be able to:

- discuss the relationship between Population and Human Rights

3.0 MAIN CONTENT

3.1 Population and Human Rights

In the field of population, concern for Human Rights has become more prominent during recent years. Most governments have adopted policies and programmes intended to influence demographic trends. at the same time, governments have used the United Nations as a forum where their representatives can discuss and ultimately reached on their citizen's rights in the field of population (Heisel, ND: 1). Human population growth is perhaps the most significant cause of the complex problems the world faces; climate change, poverty and resource scarcity complete the list (Foresight, 2009b quoted in Horizon, 2009: 1). By 2050, the world's population would have grown by 2.7 billion to 9 billion. Most of this increase will be in Asia and Africa, which, along with the rest of the globe, will face increased strain on already insufficient resources. Sustained population growth, aggressive economic competition and increased consumption will result in intensive exploitation and pressure on resources (UNEP, 2009; OECD, 2003; DCDC, 2007).

Population and human rights were two prominent issues on the world's agenda during the years following the conclusion of World War II. Scholars can trace historic roots for each of them back the millennia, but they were really only fully articulated after the mid 1940s. During the last half – century, they have established their own programmes at the international, national and local levels. Each has experienced considerable growth in the institutions that are active in its respective area (Heisel, ND: 1). Population and human rights are separate issues, but they are not independent of one another. Human rights concerns have come to play an increasing role in population policies and programmes over the last fifty years. In turn, demographic trends and population policies continue to present evolving and at times new challenges to human rights (Heisel, ND: 1).

The foundation stone upon which the post cold war II human rights establishment was built was the universal declarations, along with its two accompanying covenants, make up the international bill of human rights.

The universal declaration (UDHR) is a comparatively brief document; it consists of thirty articles, set forth in just a few pages of text. it provides the essential frame work of civic and of social and economic rights that every human being must be able to enjoy simply because he/ she is a human being (Heisel, ND: 3). the topics covered include the fundamental equality of all humans, their rights to life, liberty, security, due process and equality before the law and privacy. Slavery, torture, and arbitrary arrest are prohibited. The right to freedom of movement, asylum and to nationality is specified. All persons are granted the right to form a family, own a property, enjoy freedom of thought, religion, expression, peaceful assembly and participation in the government of their country. In addition, all have rights to development, employment, leisure, education, social security, and the enjoyment of one's culture (Heisel, ND:3).

Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes.

Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so (ICPD Programme of Action, 1994). Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care

services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant(ICPD Programme of Action, 1994).

With the extension of the concept of Human Rights to include social entitlements as well as personal freedoms, governments are charged not only with protecting individual liberty but also with ensuring social wellbeing. Furthermore, if everyone has the right to such personal freedoms and social entitlements, then no person or institution can deny another person or group the exercise of these rights (Dixon-Mueller, 1993: 3). The transition from individual liberty to social entitlement carries new obligations for the citizen as well. For instance, the "right" to an education becomes a moral obligation for parents (and a legal requirement in many countries) to send all children of a certain age to school. Similarly, the right to health becomes an obligation to vaccinate one's children against certain infectious diseases; the right to decide "freely" on the number and spacing of one's children becomes an obligation to decide ’’ responsibly" as well. (The constitution of China, for example, makes family planning not only an individual right but also a duty) (Dixon-Mueller, 1993:3). Out of liberty is born obligation, and the exercise of a right is rendered essentially compulsory" (Veil 1978:314). Population issues such as are not extensively dealt with in the UDHR. No reference is made to population size or to rate of growth, nor for that matter in any other human rights instruments adopted since. however, in one way or another each of the various factors that affect the population – fertility, mortality, internal and external migration are taken up (Heisel, ND:3).

In recent years, much attention has been devoted to the problems of overpopulation and attempts at slowing population growth. The number of people is expanding at an alarming rate, thereby threatening the physical environment as well as the quality of human life. The United Nations has not adequately dealt with the population problems (Eisenhauer, ND: 1). The idea of reproductive rights and freedoms cannot be considered apart from the exercise of other basic Human Rights. Reproductive freedom lies at the core of individual self-determination. The principle of "voluntary motherhood" was central to the movement for female emancipation among nineteenth-century liberal feminists, whereas birth control for socialist and radical feminists was more often a means to sexual and social liberation (Dixon-Mueller, 1993: 5). At least three types of reproductive rights can be distinguished: (1) the freedom to decide how many children to have and when (or whether) to have them; (2) the right to have the information and means to regulate one's fertility; (3) the fight to "control one's own body." The first two concepts have been formalized in various U.N. declarations

since the mid-1960s while the third has emerged primarily from feminist discourse liberation (Dixon-Mueller, 1993: 5). Reproductive freedom refers in most U.N. documents to the freedom of all persons of "full age" to marry or not, to choose one's spouse, to have children or not, and to decide when to have them and how many to have (Dixon-Mueller, 1993: 5).

Talking about reproductive right, Dixon-Mueller (1993: 5) argued that:
Reproductive rights and freedoms is the right to be able to regulate one's fertility, that is, the right to obtain family planning information and services. From its tentative origins in U.N. documents as a right "to adequate education and information" permitting couples to regulate their fertility, the concept was broadened to include the right to the "information, education and means to do so." This right is an entitlement in theory if not in fact: if people are to exercise their reproductive freedom, they are entitled to have the means to do so safely and effectively. Reproductive rights and freedoms is the more comprehensive right to control one's own body. Articulated as a feminist principle, this formulation recognizes the potential for conflict inherent in male-female relationships and includes sexual as well as reproductive rights. All of the elements of reproductive rights and freedom mentioned here incorporate the principles of individual liberty and social entitlement within a broad human rights framework. The individual liberty elements consist of the freedom to choose among alternative sexual and reproductive behaviours without coercion from governments or from individuals or social institutions. In turn, individual behaviour is to be governed by a sense of social responsibility.

SELF-ASSESSMENT EXERCISE

What’s the link between Human Right and population?

4.0 CONCLUSION

Population and human rights were two prominent issues on the world’s agenda during the years following the conclusion of World War II. Population and human rights are separate issues, but they are not independent of one another. Human rights concerns have come to play an increasing role in population policies and programmes over the last fifty years.

5.0 SUMMARY

The major emphasis of this unit is population and human rights. The nexus between the two has been thoroughly examined in this section.

6.0 TUTOR - MARKED ASSIGNMENT

1. Examine the relationship between population and human right.

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UNIT 4 INTERNATIONAL INSTRUMENTS ON POPULATION: CHARTERS, CONVENTION AND AGREEMENTS

CONTENTS

1.0 INTRODUCTION

Proclamations of human rights by the United Nations have multiplied since 1948 in the form of declarations and resolutions, which are not binding, and in the form of covenants and conventions which, in theory, bind ratifying member states to translate principles into action. (Unless they are embodied in national laws, however, such proclamations have no legal applicability to specific persons or situations.) International standards have been issued on the right of self-determination, the elimination of racial discrimination, prevention of genocide, abolition of forced labour, the political rights of women, rights of nationality and of refugees, freedom of information, freedom of association, consent to marriage and minimum age for marriage, children's rights, and social progress and development, among others (United Nations 1973 quoted in Dixon-Mueller 1993: 3).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- state clearly the reproductive right
- highlights the Human right keys to reproductive right
- mention the major regional human rights instruments and the mechanisms.

3.0 MAIN BODY

3.1 Reproductive Right

In particular, women's lives, liberty and security, health, autonomy, privacy, equality and non-discrimination and education, among others, cannot be protected without ensuring that women can determine when, how and whether to bear children, control their bodies and sexuality, access essential sexual and reproductive health information and services, and be free from violence (Center for Reproductive Rights, 2009: 3). All individuals have reproductive rights, which are grounded in a constellation of fundamental Human Rights guarantees. These guarantees are found in the oldest and most accepted Human Rights instruments, as well as in more recently adopted international and regional treaties. A series of documents adopted at United Nations conferences, most notably the 1994 International Conference on Population and Development (ICPD), have explicitly linked governments' duties under international treaties to their obligations to uphold reproductive rights (Center for Reproductive Rights, 2009: 3).

As stated in Paragraph 7.3 of the ICPD Programme of Action:

Reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents.

At the regional level, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Protocol on the Rights of Women in Africa) expressly articulates women's reproductive rights as human rights, and explicitly guarantees a woman's right to control her fertility. It also provides a detailed guarantee of women's right to reproductive health and family planning services. The protocol affirms women's right to reproductive choice and autonomy and clarifies African states' duties in relation to women's sexual and reproductive health (Center for Reproductive Rights, 2009: 3).

3.2 Key Reproductive Rights

The Twelve Human Rights key to reproductive rights are:

- The right to life;
- The right to liberty and security of persons;
- The Right to health including sexual and reproductive health;
- The right to decide the Number and spacing of children;
- The right to consent in marriage and equality in marriage;
- The right to privacy;
- The right to equality and non discrimination;
- The right to be free from practices that harm women and girls;
- The right to not be subjected to torture or other cruel inhuman, or degrading treatment or punishment;
- The right to be free from sexual and gender based violence;
- The right to access sexual and reproductive health education and family planning information;
- The right to enjoy the benefits of scientific progress.

3.3 Major Regional Human Rights Instruments and the Mechanisms

i. The African Charter on Human and Peoples' Rights, 1981

The adoption of the African Charter on Human and Peoples' Rights in 1981 was the dawn of a new era in the field of human rights in Africa. It was adopted on 21 October 1986, and as of 29 April 2002 had 53 States parties. Although strongly motivated by the Universal Declaration of Human Rights, the two International Covenants on human rights and the regional human rights conventions, the African Charter reflects a high degree of specificity due in particular to the African conception of the term "right" and the place it accords to the responsibilities of human beings. The Charter contains a catalogues of rights, cutting across a wide spectrum not only of civil and political rights, but also of economic, social and cultural rights. The African Charter further have the African Commission on Human and Peoples' Rights as its off shoot, "to promote human and peoples' rights and ensure their protection in Africa" (art. 30). In 1998, the Protocol to the Charter on the Establishment of an African Court of Human Rights was also adopted, but, as of 30 April 2002, this Protocol had not yet entered into force, having secured only 5 of the required 15 ratifications. Lastly, work on the elaboration of an additional protocol concerning the rights of women

in Africa is in progress within the framework of the African Commission on Human and Peoples' Rights.

ii. The American Convention on Human Rights, 1969, and its Protocols of 1988 and 1990

The American Convention on Human Rights, 1969 (OAS Treaty Series) also commonly called the Pact of San José, Costa Rica, since it was adopted in that capital city, entered into force on 18 July 1978 and, as of 9 April 2002, had 24 States parties, following the denunciation of the treaty by Trinidad and Tobago on 26 May 1998. The Convention reinforced the Inter-American Commission on Human Rights, which since 1960 had existed as "an autonomous entity of the Organisation of American States" (OAS, 1993:5). It became a treaty-based organ which, together with the Inter-American Court of Human Rights, "shall have competence with respect to matters relating to the fulfilment of the commitments made by the States Parties" to the Convention (art. 33).

iii. The European Convention on Human Rights, 1950, and its Protocols Nos. 1, 4, 6 and 7

The European Convention on Human Rights was adopted by the Council of Europe in 1950, and entered into force on 3 September 1953. As of 29 April 2002 it had 43 States parties. The Convention originally created both a European Commission and a European Court of Human Rights entrusted with the observance of the engagements undertaken by the High Contracting Parties to the Convention, but with the entry into force of Protocol No. 11 to the Convention on 1 November 1998, the control machinery was restructured so that all allegations are now directly referred to the European Court of Human Rights in Strasbourg, France. This Court is the first, and so far only, permanent Human Rights court sitting on a full-time basis. The rights protected by the Convention have been extended by Additional Protocols Nos. 1, 4, 6 and 7 (http://conventions.coe.int/).

SELF-ASSESSMENT EXERCISE

i. Examine reproductive right.
ii. What are the mechanisms put in place to protect and promote population.

4.0 CONCLUSION

All individuals have reproductive rights, which are grounded in a constellation of fundamental Human Rights guarantees. These guarantees are found in the oldest and most accepted Human Rights instruments, as well as in more recently adopted international and regional treaties.

5.0 SUMMARY

This unit examined the international instruments on population, the provision that has been made to defend human rights most especially the reproductive right particularly, Human Rights keys to reproductive rights. Also examined are the major regional human rights instruments and the mechanisms.

6.0 TUTOR - MARKED ASSIGNMENT

1. What is reproductive right?
2. Mention the Key reproductive rights.
3. Outline Major Regional Human Rights instruments and their mechanisms

7. 0 REFERENCES / FURTHER READING

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MODULE 4 SUCCESSES OF HUMAN RIGHTS INTRODUCTION

UNIT 1 HUMAN RIGHTS AND DEVELOPMENT

CONTENTS

1.0 INTRODUCTION

Essentially, this module is an exciting piece. People are the real wealth of nations, they are central to development. The basic goal of development is to create an environment that enables people to enjoy a long, healthy, creative life. This section is meant to showcase significant areas of triumph in the path way of Human Rights. The core of this section is the centrality of Human Rights to development looking at the interplay of Human Rights and development. A variant of which is Human Development, the Right to development, The Human Rights based Approach to development – As an International human rights documents give a normative long-term framework for analysis and action. Human rights clearly define every individual in the society as the rights-holder, while the state has the obligation to respect, protect and fulfil the rights of its citizens. The state can use legislation, law enforcement, administrative systems and regulations, services, information and education as means to fulfil their obligations. Of significance also in this part is the analysis of the

Millennium Development Goals (MDGs) and its impacts while Sustainable Development Goals (SDGs) received an appraisal. Of particular interest in this part of the work also, is the intersection of Foreign Policy and Human Rights, the critical examination of Human Rights in Africa and in Nigeria. The detailed discussion on this will be found in the following units:

Human rights and development have been central and indivisible pillars of the International Community of Nations since its inception in 1945 with the adoption of the Charter of the United Nations. This historic event gave birth to a normative era in which the international community, inspired by the Universal Declaration of Human Rights, produced an outstanding corpus of international norms and standards for a life of dignity and well-being for all (Chronology of UN Milestones for Human Rights and Development, 2015). Despite this monumental achievement, human rights and development practice evolved on different tracks mainly due to the political dynamics that prevailed during the cold war. The World Conference on Human Rights in 1993 was a turning point however, and opened the door to a renewed vision of the indivisibility of human rights - a vision that underscored the hand-in hand partnership of human rights and development for achieving equitable human development and the effective realisation of human rights in the lives of all persons, irrespective of their location, condition, identity or status (Chronology of UN Milestones for Human Rights and Development, 2015).

Human rights are solemn legal obligations of governments, inalienable entitlements of people everywhere they live (UN system task team on the post 2015 UN Development Agenda, ND: 8). The overly-narrow focus on economic growth that has dominated development analysis in recent years, without adequate attention to notions of equity, has, in the wake of successive crises, widening disparities, and growing social unrest, by now been widely discredited (UN system task team on the post 2015 UN Development Agenda, ND: 5).While evidence of economic recovery in some countries is now apparent, though fragile, the impacts of the crisis continue. Growth remains sluggish; high levels of unemployment persist; and ballooning government debt in many countries is casting a shadow on the sustainability of programmes that fund universal entitlements to health services, education and social protection, especially programmes that protect the most disadvantaged and vulnerable (International Council on Human Rights Policy, 2010: iii). And, beyond aggregate economic disparities, the spectre of discrimination against minorities, indigenous peoples, women, older persons, persons with disabilities, migrants and others has the dual effect of a denial of the human rights of those persons and a reduction of their potential contribution to the economic development

of the societies in which they live (UN system task team on the post 2015 UN Development Agenda, ND: 5).

While the influence of human rights has spread, so have disparities in global and national income and wealth. This raises important questions regarding the relevance of human rights to global and national economic policy, an issue especially important to consider at a time when a significant shift in economic thinking is underway (International Council on Human Rights Policy, 2010: iii). The ability to peacefully express one's views and grievances, freely and without fear, is a fundamental human right, an imperative for effective development processes, and central to most people's conceptions of a dignified life. Magnified and echoed by new communications technologies and an increasingly organized civil society, the exercise of that right is changing the world around us at unprecedented speed (UN system task team on the post 2015 UN Development Agenda, ND: 2).

From Tunis, to New York, to Santiago (and to the other parts of the world), a resounding call is being heard for a social, political and economic order that delivers on the promises of "freedom from fear and want." Civil society everywhere is calling for meaningful participation, higher levels of accountability from governments and international institutions, an end to discrimination and exclusion, a better distribution of economic and political power, and the protection of their rights under the rule of law. "The Peoples of the United Nations" are speaking, often at great personal risk, and the degree to which their legitimate concerns are heard and reflected. The real test, to a growing global population demanding a life of dignity, is the degree to which they are able to enjoy freedom from fear and want, without discrimination (UN system task team on the post 2015 UN Development Agenda, ND: 2). The majority of UN bodies have stated a commitment to a rights-based approach to development that defines progress in terms of the fulfilment of social, political, economic, cultural and civil rights. Societies that do not create the conditions for their citizens to realise these rights cannot be said to be 'developed' (Seymour and Pincus, 2008: 387).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- describe the centrality of Human right to development
- explain the human rights- based approach.

3.0 MAIN CONTENT

3.1 Human Rights and Development

"the developmentalists are seeking to reformulate their concerns in the language of rights, while the human rights advocates are taking on board developmental issues without which, they recognise rights-talk can have little meaning to, and legitimacy with the vast majority of the people in the poor countries…" (Shivji, 1999: 262).

Human rights can be the consensual frame for development policy because the moral commitment to human rights is universal, the majority of states have ratified major human rights treaties, and some core rights are universally valid because of customary law (Hamm, 2001: 1013). Human rights have become a more important aspect of development policy and programming since the end of the Cold War. The 1993 Vienna World Conference on Human Rights, the 2000 Millennium Summit, and the 2005 World Summit all recognise that development and human rights are interdependent and mutually reinforcing. The UN Secretary General's conception of 'in larger freedom' encapsulates the inter-linkages between development, security and human rights (Piron and O'Neil, 2005: ii).

Human rights are legal rights enshrined in the Universal Declaration of Human Rights; various human rights Covenants, Conventions, Treaties and Declarations; Regional Charters; National Constitutions and laws. But human rights are rights not solely because they are recognized in legal instruments. Human rights inhere in the very nature of the human person.

They define and affirm our humanity. They exist to ensure that human life remains sacred. They exist to guarantee that humanity and injustice are prevented or redressed. Human rights, and in particular the human right to development, provide the values, principles and standards essential to safeguard that most precious of all rights — the right to be human (UNDP, 2006: 1)

A balanced development framework, reflecting the full range of international standards for civil, cultural, economic, political and social rights, is essential. This means that development includes considerations of decent work, health care, adequate housing, a voice in public decisions, fair institutions of justice, and a sense of personal security. The United Nations has repeatedly reaffirmed the importance to development of respect for all human rights and fundamental freedoms, including the right to development. And the increasing global embrace of human rights-based

approaches to development, based on the principles of participation, accountability, non-discrimination, empowerment and the rule of law, offers hope that a more enlightened model of development is now emerging (UN system task team on the post 2015 UN Development Agenda, ND: 2). Thus, a human rights approach to development is founded on broad international validity and acceptance of human rights (Hamm, 2001: 1014). Hence, UNDP (2006: 1) asserts that:

- Human rights, when upheld, spell the difference between being and merely existing.
- They safeguard both human dignity and human identity (individual and collective) and thus bring purpose and worth to existence.
- They protect the physical integrity of a person and the human security of all peoples.
- Freedom from fear and freedom from want constitute the minimal essential conditions of being, for individuals, communities and peoples.
- Human rights are holistic and interdependent, as indeed they must be since they inhere in the human person. Human rights are both individual and collective, as indeed they must be since no person is an island. Indeed our individual, solitary existence draws meaning from our social interactions: with family, friends and community.

Human rights and development have experienced a form of "rapprochement" in recent years (McInerney-Lankford and Sano, 2010: 6). Many development programmes and projects have interventions that aim at improving access for the poor to services and information. In this context, they can include activities to enhance accessibility for persons with disabilities as part of the target group. Entry points vary according to the mandate of the organisation, the country-specific context, the sector and the level of intervention. They may include advocacy, technical and policy advice, capacity development and training measures (GIZ and CBM, 2012: 21). Physical accessibility is a key dimension for all development programmes that include an infrastructure component. Basic standards for buildings include the provision of curb cuts (ramps), safe crossings across the streets, accessible entries and paths of travels to all spaces and access to adequate public amenities (GIZ and CBM, 2012: 21).

Under their human rights treaty commitments, States are already obliged to aim for universal access to at least a basic level of social rights, dismantle discrimination and achieve substantive equality (beyond mere formal equality of treatment, which may include positive measures or affirmative action for excluded and marginalised groups), and ensure the availability,

accessibility, affordability, acceptability, adaptability and quality of services. They are as well bound to undertake positive measures to ensure access to justice, participation in public affairs, personal security, and free expression, association and assembly emerging (UN system task team on the post 2015 UN Development Agenda, ND: 4).

Today, emerging economies and middle-income countries are helping to redefine the global economy, growing poverty and inequalities in rich countries are challenging economic stereotypes, and south-south and triangular cooperation are eroding traditional distinctions between "donors" and "beneficiaries." Migration and population aging are transforming demographic indicators in all regions, transnational economic interdependence is a fact of life, and the many manifestations of globalisation- both positive and negative- are chipping away at the relevance of national boundaries (UN system task team on the post 2015 UN Development Agenda, ND: 5). Migrants, minorities, indigenous peoples, women, and vulnerable, excluded or marginalized groups require a specific, equitable and rights-based development approach wherever they live, and governments and institutions in all countries and at all levels have responsibilities in this regard. As such, the universally agreed, and universally applicable, normative framework of human rights is more relevant than ever to the global challenges of development (UN system task team on the post 2015 UN Development Agenda, ND: 5).

The human rights system, through various treaties, protects marginalised groups such as women, minorities, children, persons with disabilities, and it places affirmative obligations on states to provide many of remedies to inequalities such as voting rights, water, food, health care, education, etc. Not only does the system already provide protection, the whole system, which, if properly utilised, can provide the means for individuals to obtain redress. Human rights standards set a roadmap for how to achieve the world we want by placing legal obligations on governments to promote, protect and realise a full range of civil, political, social, cultural and economic rights through the adoption and enforcement of appropriate laws and policies, as well as through the allocation of resources and provision of services (Beyond 2015: 7).

Up to a million human life years are estimated to have been saved through human rights litigation resulting in court-ordered dispensation of anti-retroviral medications in South Africa, and an additional 350,000 girls are estimated to be attending school annually as a result of meal programmes introduced in response to a right to food campaign in India (UN system task team on the post 2015 UN Development Agenda, ND: 5). Human Rights

define and defend the future of the human race, being an essential component to achieving sustainable human development. Any effort toward this goal—including present development focus on efficiency and effectiveness—would benefit from the legitimacy and urgency that the human rights-based approach carries (UNDP, 2006: 1).

3.2 Human Rights-Based Approach to Development

The (Human) rights-based approach is a concept that is strongly promoted by the United Nations and its various development agencies and programmes as well as by certain donor countries, among them Australia and the United Kingdom. It has served as a new programming tool at country level for the individual United Nations agencies and programmes (ECLAC, 2007: 27). As such, the rights based approach was limited to their specific sectors of intervention and spheres of competence, i.e. food, health, education, labour, children, women, population, etc. What was missing was a more comprehensive, integrated operational framework that brings together the various United Nations development agencies and programmes in a joint programming and coordination effort, that encompasses the different clusters of human rights, economic, social and cultural, and that is built around the Millennium Development Goals and the countries' commitment towards gradual implementation (ECLAC, 2007: 27).

An increasing emphasis has been placed in recent years on rights-based approaches to development (UNICEF and UNESCO, 2007: 9). The debate about human rights in development and human rights– based approaches to development has gained prominence over the past 10 years as a result of an evolution in thinking in both areas and a re-evaluation of development programs since the Vienna World Conference on Human Rights in 1993 (McInerney-Lankford and Sano, 2010: 4). The rights-based approach to development has swept through the global development assistance sector during the last fifteen years. As a result, bilateral development donors, international organisations, and development-oriented nongovernmental organisations (NGOs) are increasingly committed, in theory, to implementing human rights. This commitment has dramatically accelerated the discursive and organisational merger of the global human rights and development policy communities (Kindornay, Ron, Carpenter, 2012: 472).

The "rights-based approach" (RBA) emerged as a new development paradigm in the late 1990s. Within less than a decade, this new approach had swept through the websites, policy papers, and official rhetoric of multilateral development assistance agencies, bilateral donors, and nongovernmental organisations (NGOs) worldwide. Today, specialized

consultants and advisors are elaborating and mainstreaming the paradigm through reports, workshops, and project evaluations, ensuring that rights-based thinking on development problems will continue to deepen and proliferate for years to come (Kindornay, Ron, Carpenter, 2012: 472).

The rights-based approach to development was first articulated in Northern development circles in the mid-1990s, when two previously distinct strands of foreign assistance and global policy—"human rights" and "development"— began to merge, combining the principles of internationally recognised human rights with those of poverty reduction (Kindornay, Ron, Carpenter, 2012: 476). Rights-based development experts began urging development practitioners to assess human rights conditions before formulating their plans and projects (Frankovits, 2005). Human rights are rooted in the recognition of the inherent dignity and equal worth of all human beings, regardless of their social background, gender, age, religion, health status, sexual orientation or other status. Every person is equally entitled to the fundamental rights enshrined in the Universal Declaration of Human Rights (1948), and the subsequent nine core human rights treaties, such as the International Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Elimination of all Forms of Discrimination against Women (1979) or the Convention on the Rights of the Child (1989). These binding treaties impose obligations on State parties to respect, protect and fulfil human rights. International human rights law considers people as rights-holders with entitlements, which they can claim from the State and the duty-bearer (GIZ and CBM, 2012: 10).

International human rights documents give a normative long-term framework for analysis and action. Human rights clearly define every individual in the society as the rights-holder, while the state has the obligation to respect, protect and fulfil the rights of its citizens. The state can use legislation, law enforcement, administrative systems and regulations, services, information and education as means to fulfil their obligations. In planning, programming and monitoring the basic principles of human rights have to be developed and considered (Rubenson, 2002: 17). At the heart of the Human Right Based Approach (HRBA), is the recognition that all persons are active subjects with legal claims and not merely people in need and passive recipients of aid. Seen from this perspective, development cooperation contributes to the development of the capacities of "duty-bearers", i.e. States and their institutions acting with delegated authority, to meet their obligations and of "rights-holders" to claim their rights (GIZ and CBM, 2012: 10). The UN Statement of Common Understanding elaborates what is understood to be a rights-based approach to development cooperation and development programming. It

emphasizes that all programmes of development cooperation, policies and technical assistance should further the realization of human rights, and therefore that human rights principles and standards should guide all phases of the programming process (UNICEF and UNESCO, 2007: 13).

A human rights-based approach to development programming (HRBA) is one which systematically applies the values, principles and standards contained in international and national human rights law to all aspects, both substantive and procedural, of the development process, namely to:

- Situational analysis and assessment
- Priority and target-setting
- Policy and strategy development
- Programming and project formulation
- Project implementation and service delivery
- Monitoring and evaluation (UNDP, 2006: 15)

Many view this trend with excitement, highlighting the normative and practical value of injecting human rights principles into standard development thinking and practice (Kindornay, Ron, Carpenter, 2012: 472).

For development cooperation this implies a shift from a “medical model” that defines disability primarily as a result of individual impairments to a “social model” that focuses on environmental and societal obstacles. The social model identifies and addresses the contextual factors, i.e. physical, attitudinal and institutional barriers to the inclusion of persons with disabilities. It places the responsibility on governments and society to ensure that political, legal, social and physical environments support the full inclusion of all persons with disabilities (GIZ and CBM, 2012: 13).

Based on the social model, responses to disability have to embrace more than mere medical treatment and rehabilitation measures in the health sector. They need to address the multiple barriers to the inclusion of persons with disabilities in all sectors and at all levels of development cooperation. Mainstreaming an HRBA implies integrating human rights standards and principles in all stages of the programme cycle management, i.e. design, implementation and monitoring and evaluation. It is crucial for programmes in the infrastructure sector (e.g. water and sanitation, housing) and the social sector (e.g. health, education, social protection), and is also highly relevant to other sectors such as employment, economic development, professional education and governance (GIZ and CBM, 2012: 13). The success of Human Rights-Based development strategies will primarily rest on the recognition and respect for the primacy of universal

Human Rights by the State. As was highlighted in the Human Development Report 2000, respect for human rights is to be reflected in a State's norms, institutions, legal frameworks and enabling economic, political and policy environment (UNDP, 2006:15)

In a similar fashion UNICEF and UNESCO (2007: 10) maintained that, as part of the UN Programme for Reform launched in 1997, the UN Secretary-General called on all entities of the UN system to mainstream human rights into their activities and programmes. This led to an inter-agency process of negotiation, resulting in the adoption of a UN Statement of Common Understanding that has been accepted by the UN Development Group. The statement provides a conceptual, analytical and methodological framework for identifying, planning, designing and monitoring development activities based on international human rights standards. Essentially, it integrates the norms, standards and principles of international human rights into the entire process of development programming, including plans, strategies and policies. It seeks to create greater awareness among governments and other relevant institutions of their obligations to fulfil, respect and protect Human Rights and to support and empower individuals and communities to claim their rights.

Within the United Nations, three key agencies—the UN International Children's Fund (UNICEF), the United Nations Development Program (UNDP), and the Office of the United Nations High Commissioner for Human Rights (OHCHR)—were early and important champions of the rights-based approach. Among international NGOs, the first to explicitly adopt a rights-based approach were Oxfam and CARE, both of which made the change in the early 2000s (Kindornay, Ron, Carpenter, 2012: 479). At about the same time, two major Northern bilateral donors—the United Kindom's Department for International Development (DFID) and the Swedish International Development Agency (SIDA)—followed suit (Kindornay, Ron, Carpenter, 2012: 480). Thus, to apply an HRBA demands more than simply adding persons with disabilities to the target groups of development programmes and projects. It requires supporting the implementation of the international human rights standards enshrined in the core human rights treaties, ... These standards, i.e. the content of specific rights, are specified in General Comments issued by the UN human rights treaty bodies. Most importantly it means adhering to and promoting the core human rights principles that form international human rights law.

These core human rights principles, further elaborated by UN treaty bodies …, include non-discrimination, equality of opportunity, participation, empowerment, accountability and transparency (GIZ and CBM, 2012: 14).

According to the UN Common Understanding, all UN development activities after 2003 were to be structured to advance the principles codified in the Universal Declaration of Human Rights and its associated conventions. As a result, the Common Understanding's basic tenets include an emphasis on the universality, indivisibility, and interdependence of all rights, along with principles of non-discrimination, popular participation, inclusion, accountability, and the rule of law. The Common Understanding also instructs UN officers to use human rights standards when planning, monitoring, and evaluating their development activities, to strengthen the ability of duty-bearers to meet their obligations, and to improve the capacity of rights-holders to claim their due (Kindornay, Ron, Carpenter, 2012: 480). Some general principles (e.g. non-discrimination, equality of opportunity) specify core human rights principles in the context of disability. Some highlight the importance of addressing multiple discriminations (e.g. equality between men and women, respect for the evolving capacities of children) of persons with disabilities. Others (respect for difference, inherent dignity and individual autonomy; accessibility; social protection) underline essential aspects in the lives of persons with disabilities. As a whole the general principles constitute the fundamentals of an inclusive society (GIZ and CBM, 2012: 14).

The Common Understanding has sparked a cascade of rights-based rhetoric across the UN system, including the UN Population Fund (UNFPA), the UN Education, Social and Cultural Organisation (UNESCO), the Food and Agriculture Organisation (FAO), the UN Development Fund for Women (UNIFEM), the Joint United Nations Program on HIV/AIDS (UNAIDS), the World Health Organisation (WHO), and the UN Development Group (UNDG). All these distinct UN agencies adopted the Common Understanding over the last seven years, further fuelling the rights-based discursive proliferation through each organisation's grants, consultancies, strategy papers, project evaluations, and programming tools (Kindornay, Ron and Carpenter, 2012: 480). By 2005, several prominent international NGOs, including Save the Children and Action Aid, along with the official donor agencies of Denmark, Norway, Switzerland, Finland, and Germany had all announced their commitment to the rights-based approach.

In 2006, the Organisation of Economic Cooperation and Development's/ Development Assistance Committee (OECD-DAC) joined in, and the World Bank followed soon after with a "Social Guarantees Approach" that implicitly integrated rights into its work. And while the rights-based phenomenon is largely secular, some large Christian aid agencies have also joined in, including Catholic Relief Services, Christian Aid, the Church of

Sweden, and Dan- Church Aid (Kindornay, Ron, Carpenter, 2012: 480). Today, the rights-based approach is also gaining ground in international discussions on the future of the OECD-DAC aid effectiveness agenda. For example, civil society members of the Working Party on Aid Effectiveness (WP-EFF)—including over 700 development organisations— have made the rights-based approach a key priority (Kindornay, Ron, Carpenter, 2012: 480). The relationship between claims and duties implies clear accountabilities – the commitments made under human rights treaties are entitlements, not promises or charity. Development assistance must be the result of those international obligations (UNICEF and UNESCO, 2007: 15).

A Human rights-based approach promotes social transformation by empowering people to exercise their "voice" and "agency" to influence the processes of change. It strengthens democratic governance by supporting the state to identify and fulfil its responsibilities to all under its jurisdiction. And it gives substance to universal ethics by translating the principles of international declarations and conventions into entitlements and concrete action (UNDP, 2006:15). The human rights-based approach thus provides both a vision of what development should strive to achieve and a set of tools and essential references. Activating the tools and references will lead to better analysis and more strategic interventions to enhanced ownership by the people, and will forge automatic partnerships between the UN, government and civil society. Development interventions will moreover become more sustainable, through the explicit emphasis on accountability in decision-making and participation (UNDP, 2006:15).

Human rights-based approach (HRBA) has become increasingly important in tackling existing inequality at different settings (Katsui, 2008: 5). A right---based approach to development compels governments to take proactive measures to eliminate discrimination, reduce barriers and allocate resources in a way that promotes equality of both access and opportunity.

Civil and political rights represent immediate governmental obligations, while economic and social rights may be realized progressively over time taking into account certain obligations such as ensuring minimum standards, taking "deliberate, concrete and targeted" actions and avoiding regression and non---discrimination at all times (Beyond 2015, 2012: 8). In cases where governments struggle to meet these requirements, human rights standards impel the international community to support the realization of rights through international assistance and cooperation. These standards include prioritizing the rights of disadvantaged, marginalized and vulnerable groups in states' international cooperation and assistance (Maastricht Principles 32, 2011: cited in Beyond 2015, 22012: 8). A human

rights approach to development requires communities at all levels – local, national and international – to address underlying causes of inequality and lack of human rights by focusing on both the substance and the processes that may lead to inequity via discrimination and poverty. Existing human rights mechanisms also offer a monitoring and accountability system that could facilitate analysis of discrimination, inequalities and countries' responses to them. A human rights approach moves away from the notion that the beneficiaries of development are subjects of charity. It instead recognizes individuals as rights---holders and places obligations on governments to protect and promote their rights (Beyond 2015, 2012: 8). A rights-based approach to development sets the achievement of human rights as an objective of development (ODI, 1999).

SELF-ASSESSMENT EXERCISE

i. Examine the centrality of human right to development.
ii. Analyse Human Right based approach to development.

4.0 CONCLUSION

Human Rights and Development have been central and indivisible pillars of the International Community of Nations. Human rights and development have experienced a form of "rapprochement". Human rights standards set a roadmap for how to achieve the world we want by placing legal obligations on governments to promote, protect and realise a full range of civil, political, social, cultural and economic rights through the adoption and enforcement of appropriate laws and policies, as well as through the allocation of resources and provision of services. The human rights-based approach thus provides both a vision of what development should strive to achieve and a set of tools and essential references. A rights-based approach to development sets the achievement of human rights as an objective of development.

5.0 SUMMARY

Human rights have become a more important aspect of development policy and programming. The human rights-based approach thus provides both a vision of what development should strive to achieve and a set of tools and essential references. In this unit, the interlocking relationship between Human rights and development has been stressed. Also a detailed analysis of Human Right Based Approach was critically examined.

6.0 TUTOR-MARKED ASSIGNMENT

1. what is the relationship between Human Right and Development.
2. Explain the significance of Human right - based approach to development.

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UNIT 2 SCOPE AND DIMENSION OF HUMAN RIGHTS AND DEVELOPMENT

CONTENTS

1.0 INTRODUCTION

People are the real wealth of nations. The basic goal of development is to create an environment that enables people to enjoy a long, healthy, creative life. This fundamental truth is often forgotten in the immediate concern with the accumulation of goods and money. Preoccupation with economic growth and the creation of wealth and material opulence has obscured the fact that development is ultimately about people. It has had the unfortunate effect of pushing people from the centre to the periphery of development debates and dialogues (Arab Human Development Report, 2002: 15). The architecture of the United Nations, by its very Charter, is built on three main pillars: peace and security, development, and human rights.

Conceptually, these three pillars were linked, interrelated and interdependent, so much so, that there could be no peace and security without development, no development without human rights and no human rights without peace and security. This trilogy was and remains the conceptual underpinning and basic mandate of the United Nations (ECLAC, 2007: 5).

The interrelationship between peace and security, development, and human rights has not always been evident over the years. In fact, during the long period of the cold war, these three basic pillars of the United Nations architecture grew and evolved quite separately from one another without much interaction among them. As a consequence, during that period there were somehow three separate systems and communities at work within the United Nations, i.e. the United Nations collective security system, the United Nations development system and the United Nations human rights system (ECLAC, 2007: 5). It is recalled that up to the late 1980s, there was little or no connectivity and linkages as far as these three systems were concerned. They were operating within the strict confines of their mandate, having their own separate constituencies both at the level of United Nations member States as well as at the level of the United Nations Secretariat. Those were the years when the United Nations Security Council was not dealing with development issues or human rights considerations, when the United Nations Development Programme (UNDP) was focusing almost exclusively on economic development issues without integrating human rights into its programme analysis and planning, and when the then United Nations Centre for Human Rights spent most of its energy and resources on the promotion of the major United Nations human rights covenants, in priority over the United Nations Covenant on Civil and Political Rights, and this much in isolation from peace and security considerations and from the United Nations development community (ECLAC, 2007: 5).

United Nations resolutions are applicable and implementable in the domestic sphere of member States, without lengthy treaty-making and ratification procedures. This normative function manifests itself in particular in the case of major United Nations resolutions and declarations adopted in the pursuit of sustainable human development, starting from the Declaration on the Right to Development, through the World Summit Declarations of the 1990s and culminating somehow with the adoption of the Millennium Declaration and the Millennium Development Goals (and now Sustainable Development Goals) (ECLAC, 2007: 18).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain human Development
- discuss extensively the right to development
- highlight the Millennium Development Goals (MDGS)
- mention and explain sustainable Development Goals.

3.0 MAIN CONTENT

3.1 Human Development

This is seen as a redefinition of the process of development itself, a shift away from the purely "economic" approach to development, towards development defined as human development, which is a comprehensive, people centred economic, social, cultural and political process through which all the human rights and fundamental freedoms of all individuals and entire populations can be realised, civil and political rights, economic, social and cultural rights (Stewart, 1986 and Human Development Report 2000 cited in ECLAC, 2007: 18). Human development can be simply defined as a process of enlarging choices. Every day human beings make a series of choices – some economic, some social, some political, some cultural. If people are the proper focus of development efforts, then these efforts should be geared to enhancing the range of choices in all areas of human endeavour for every human being. Human development is both a process and an outcome. It is concerned with the process through which choices are enlarged, but it also focuses on the outcomes of enhanced choices (Arab Human Development Report 2002: 15). "Human development is a process of enlarging people's choices; the most critical ones are to lead a long and healthy life, to be educated and to enjoy a decent standard of living" (Human Development Report 1990).

Human development goals and objectives are to be regarded as entitlements, and not simply as human needs or development requirements, entitlements that can be claimed by individuals – groups of individuals – as right holders against the corresponding duty holders such as the State or the international development community. In the words of the former Secretary General, the rights-based approach "empowers people to demand justice as a right, not as a charity, and it gives communities a moral basis from which to claim international assistance where needed" (Annan, 1998, Annan, 2005 quoted in ECLAC, 2007: 26).

3.2 Right to Development

The first signpost of change came about with the adoption by the United Nations General Assembly of the Declaration on the Right to Development which explicitly affirmed the human right to development. This proclamation was strengthened by the 1993 Vienna World Conference on Human Rights as well as by the various world conferences and summits which took place under United Nations auspices during the 1990s, bringing basic human rights and freedoms to the fore, and culminating with the

Millennium Declaration and the Millennium Development Goals (MDGs), based on an integrated and interdependent set of human rights, identified as the underpinning of the process of economic and social development (ECLAC, 2007: 6). One of the most far-reaching decisions of the United Nations General Assembly (UNGA) was the adoption of the Declaration on the Right to Development in 1986. The Declaration was adopted with an expectation of optimism about progression to a new global economic dispensation. However, the Declaration remains an important symbol of global expectation (Nagan, 2013:3).

The Declaration on the Right to Development was proclaimed by the UNGA under resolution 41/128 in 1986 (Wikipaedia, 2014), with only the United States voting against the resolution and eight abstentions. The United Nations recognises no hierarchy of rights, and all human rights are equal and interdependent, the right to development then is not an umbrella right that encompasses or trumps other rights nor is it a right with the status of a mere political aspiration (Wikipaedia, 2014). The right to development refines the human rights perspective by making the individual a central component of development from a human rights point of view. In this sense, the individual human being as a bearer of social and economic capital becomes important in the development of a theory of development itself (Nagan, 2013:3). Institutionally the UN has taken the right to development as a serious part of its mandate. However, it cannot be said that it has established a dominant place for even the discourse about a charter-based right to development. In point of fact, the UN has strenuously pressed the right to development as an important and evolving charter-based expectation (Nagan, 2013:3).

For Wikipaedia (2014) The Right to development is regarded as an inalienable human right which all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development. The right includes 1) people-centred development, identifying “the human person” as the central subject, participant and beneficiary of development; 2) a human rights-based approach specifically requiring that development is to be carried out in a manner “in which all human rights and fundamental freedoms can be fully realised”; 3) participation, calling for the “active, free and meaningful participation” of people in development; 4) equity, underlining the need for “the fair distribution of the benefits” of development; 5) non-discrimination, permitting “no distinction as to race, sex, language or religion”; and 6) self-determination, the declaration integrates self-determination, including full sovereignty over natural resources, as a constituent element of the right to development.

The Declaration on the Right to Development (1986) places human rights at the centre of development. It states, for example, that .democracy and transparent and accountable governance and administration in all sectors of society are indispensable foundations for the realisation of social and people-centred sustainable development (para. 4). At another point it refers to the acknowledgement .that social and economic development cannot be secured in a sustainable way without the full participation of women and that equality and equity between women and men is a priority for the international community and as such must be at the centre of economic and social development (para. 7). The Declaration places particular emphasis on the eradication of poverty (Ghai, 2001: 1). The Rio Declaration asserts under principle 1 that "Human beings are at the centre of concerns for sustainable development, they are entitled to a healthy and productive life in harmony with nature".

One obstacle to the right is in the difficult process of defining 'people' for the purposes of self- determination. Additionally, most developing states voice concerns about the negative impacts of aspects of international trade, unequal access to technology and crushing debt burden and hope to create binding obligations to facilitate development as a way of improving governance and the rule of law (Arab Human Development Report, 2002).

The right to development embodies three additional attributes which clarify its meaning and specify how it may reduce poverty 1) The first is a holistic approach which integrates human rights into the process 2) an enabling environment offers fairer terms in the economic relations for developing countries and 3) the concept of social justice and equity involves the participation of the people of countries involved and a fair distribution of developmental benefits with special attention given to marginalised and vulnerable members of the population (Arab Human Development Report, 2002).

3.3 The Right to Development and the Millennium Declaration

This is a program generated by and promoted by the UN. It is an aspect of the UN commitment to the universalisation of the right to development. The program has struggled for want of support from globally privileged centers of economic advantage. However, the goals of the millennium initiative are intricately connected with the ideas of generating policies that secure and advance the importance of human and social capital (Nagan, 2013:20). The specific goals are as follows:

1. Eradicate extreme hunger and poverty
2. Achieve universal primary education
3. Promote gender equality and empower women
4. Reduce child mortality
5. Improve maternal health
6. Combat HIV/AIDS, malaria and other diseases
7. Ensure environmental sustainability
8. Develop a global partnership for development (Nagan, 2013:20).

The Millennium Declaration and the Millennium Development Goals are a comprehensive and integrated expression of and commitment to, the concept of sustainable human development and indicate the steps and measures to be taken towards gradual implementation and progressive realisation of the basic human rights underlying the Goals. What is unique about the Goals is the identification of eight broad goals concerning the major development issues facing the international community at the turn of the century, the establishment of a set of agreed targets and measurable indicators and the setting of a timeframe and target date within which the goals are to be achieved (ECLAC, 2007: 18). The Goals and their targets constitute a roadmap towards the progressive realisation of basic human rights through reducing extreme poverty and hunger, achieving universal (primary) education, promoting gender equality, reducing child mortality and improving maternal health, reducing HIV prevalence and the incidence of malaria and other major diseases, ensuring environmental sustainability and building global partnerships for development. It is important to note that Goal 8 represents a commitment of the developed countries to enter into a global partnership with the developing world, in support of an open and non-discriminatory trading system, in support of easier market access and increased official development assistance, in support of affordable, essential drugs, in support of debt relief, and in support of better access to new information and communications technologies (ECLAC, 2007: 18).

3.4 Sustainable Development Goals (SDGs)

One of the main outcomes from the UN Conference on Sustainable Development (Rio+20) in 2012 was international agreement to negotiate a new set of global Sustainable Development Goals (SDGs) (officially known as Transforming our world: the 2030 Agenda for Sustainable Development) to guide the path of sustainable development in the world after 2015. The Rio+20 Outcome Document1 Indicates that the goals are intended to be “action-oriented, concise and easy to communicate, limited in number, aspirational, global in nature and universally applicable to all countries, while taking into account different national realities, capacities

and levels of development and respecting national policies and priorities." They should be "focused on priority areas for the achievement of sustainable development" (Osborn, Cutter and Ullah, 2015: 3). The mandate to develop the proposal on the SDGs has been included in the Rio+20 Outcome Document, 'The future we want' (2012), which incorporated the request to create an Open Working Group with the task of developing the set of SDGs. It also provided the basis for their conceptualization, and instructed that such a list of goals should be coherent with and integrated into the UN development agenda beyond 2015.

Therefore, Rio+20 needs to be considered a crucial milestone in the development process of the SDGs, and represents a key component to understand such a process (Pisano, Lange, Berger and Hametner, 2015: 5).

In a preamble in UN document A/Res/70/1, the 2030 Agenda for Sustainable Development; it maintained that, This Agenda is a plan of action for people, planet and prosperity. It also seeks to strengthen universal peace in larger freedom. We recognise that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development. All countries and all stakeholders, acting in collaborative partnership, will implement this plan. We are resolved to free the human race from the tyranny of poverty and want and to heal and secure our planet. We are determined to take the bold and transformative steps which are urgently needed to shift the world on to a sustainable and resilient path
As the discussions to create these goals have taken place over the past two years, much of the international dialogue has however naturally focused on the problems of the developing and least developed countries and how a combination of their own efforts and renewed international co-operation and partnership can help them build on the achievements of the Millennium Development Goals (MDGs) to make progress more rapidly towards the goals and targets. These issues feature strongly in the set of SDGs and targets proposed by the UN's Open Working Group in August 2014 as the basis for further discussion and negotiation in the General Assembly (Osborn, Cutter and Ullah, 2015: 3).

The UN General Assembly's Open Working Group on Sustainable Development Goals (OWG) agreed on and published a 'zero draft' proposal at the conclusion of its thirteenth and final session on the 19th July 2014.

The proposal contains 17 goals, accompanied by 169 targets (Pisano, Lange, Berger and Hametner, 2015: 5). The 17 Sustainable Development Goals and 169 targets which were announced demonstrates the scale and

ambition of this new universal Agenda, seeks to build on the Millennium Development Goals and complete what they did not achieve. They seek to realise the Human Rights of all and to achieve gender equality and the empowerment of all women and girls. They are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social and environmental. The Goals and targets will stimulate action over the next 15 years in areas of critical importance for humanity and the planet (UN, ND: 5).

In principle this kind of analysis could be used to help analyse the different challenges that will be involved in planning for implementation of the different SDGs in different circumstances. Thus in a national context it might be a useful tool to illuminate a national conversation or consultation with stakeholders about the relative applicability of the different goals and targets in that country, so as to focus implementation strategies and action plans around the highest priority elements (Osborn, Cutter and Ullah, 2015: 3). In addition, the outcome document specified that the development of SDGs should:

- be useful for pursuing focused and coherent action on sustainable development;
- contribute to the achievement of sustainable development;
- serve as a driver for implementation and mainstreaming of sustainable development in the UN system as a whole; and
- Address and be focused on priority areas for the achievement of sustainable development (Pisano, Lange, Berger and Hametner, 2015: 5).

3.5 List of Sustainable Development Goals

Goal 1: End poverty in all its forms everywhere
Goal 2: End hunger, achieve food security and improved nutrition, and promote sustainable agriculture
Goal 3: Ensure healthy lives and promote well-being for all at all ages
Goal 4: Ensure inclusive and equitable quality education and promote life-long learning opportunities for all
Goal 5: Achieve gender equality and empower all women and girls
Goal 6: Ensure availability and sustainable management of water and sanitation for all
Goal 7: Ensure access to affordable, reliable, sustainable, and modern energy for all

Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

Goal 9: Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation

Goal 10: Reduce inequality within and among countries

Goal 11: Make cities and human settlements inclusive, safe, resilient and sustainable

Goal 12: Ensure sustainable consumption and production patterns

Goal 13: Take urgent action to combat climate change and its impacts

Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development

Goal 15: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss

Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

Goal 17: Strengthen the means of implementation and revitalise the global partnership for sustainable development (**Source: UN, 2014)**

The SDGs cover a wide range of issues. They include traditional MDG areas such as poverty, hunger, health, education, and gender inequality but added new topics such as energy, infrastructure, economic growth and employment, inequality, cities, sustainable consumption and production, climate change, forests, oceans, and peace and security. The SDGs are universal, meaning they are equally applicable to all countries. They include challenging targets for rich countries as well as poor (CAFOD, 2015).

3.6 Global Efforts and International Instruments/Documents

Safeguarding Right to Development

- Universal Declaration of Human Rights
- International human rights instruments
- Asian Forum for Human Rights and Development
- Rights-based approach to development
- International Centre for Human Rights and Democratic Development
- Right to development

- Institute for Human Rights and Development in Africa (IHRDA)
- Human development (humanity)
- Asian Human Rights Development Organisation
- Cambodian Human Rights and Development Association (ADHOC)
- Human rights and development
- Office of the United Nations High Commissioner for Human Rights
- ASEAN Human Rights Declaration
- Asian Forum for Human Rights and Development
- Office of the United Nations High Commissioner for Human Rights, Research and Right to Development Branch
- "The United Nations Charter".
- "Universal Declaration of Human Rights".
- ."Vienna Declaration and Programme of Action".
- "World Conference on Human Rights A/RES/48/121".
- "Rio Declaration on the Environment and Development. A/CONF.151/26 (Vol. I)".
- "Strengthening human rights-related United Nations action at country level: Plan of Action" .
- "Human rights-based approach to development programming. (HRBA)".
- "Declaration on the Right to Development. A/RES/41/128".
- "Development is a Human Right for All"..
- "African Charter on Human and Peoples Rights

3.7 Interagency or Multilateral Agreements on, or Referring to, Human Rights and Development

- UN Vienna Human Rights Declaration and Program of Action (1993)
- UN Millennium Declaration (2000)
- DAC-Guidelines on Poverty Reduction (2001)
- UN Interagency Common Understanding of an Human Rights-Based Approach (2003)
- UN World Summit Outcome Document (2005)
- OECD-DAC Action-Oriented Paper on Human Rights and Development (2007)
- Accra Agenda for Action (2008)
- UN MDG 2010 Summit Outcome Document (2010)
- Busan Outcome Document (2011)
- The 25th Anniversary of the Declaration on the Right to Development, Joint Statement of Chairpersons of the UN Treaty Bodies (2011)

- Joint Statement on the Occasion of the 25th Anniversary of the UN Declaration on the Right to Development (2011)
- UN Conference on Sustainable Development (Rio+20) Outcome Document (2012)
  Source: OECD/World Bank (2013 adapted from D'Hollander, Marx and Wouters, 2013: 14).

SELF-ASSESSMENT EXERCISE

Briefly account for the following:

i. Human development,
ii. Right to development,
iii. the right to development and the millennium declaration/ Millennium Development Goals (MDGs),
iv. Sustainable Development Goals (SDGs

4.0 CONCLUSION

Human development is a process of enlarging people's choices; the most critical ones are to lead a long and healthy life, to be educated and to enjoy a decent standard of living. Human development goals and objectives are to be regarded as entitlements, and not simply as human needs or development requirements, entitlements that can be claimed by individuals – groups of individuals. The Right to development is regarded as an inalienable human right which all peoples are entitled to participate in, contribute to, and enjoy: economic, social, cultural and political development. It places human rights at the centre of development. The Millennium Declaration and the Millennium Development Goals are a comprehensive and integrated expression of and commitment to, the concept of sustainable human development and indicate the steps and measures to be taken towards gradual implementation and progressive realisation of the basic human rights underlying the Goals. The Goals and their targets constitute a roadmap towards the progressive realisation of basic human rights. The SDGs (with 17 Goals) cover a wide range of issues. They include traditional MDGs (8 Goals) areas such as poverty, hunger, health, education, and gender inequality but added new topics such as energy, infrastructure, economic growth and employment, inequality, cities, sustainable consumption and production, climate change, forests, oceans, peace and security.

5.0 SUMMARY

This unit x-rayed Human Development, Right to development, the right to development and the millennium declaration/ Millennium Development Goals (MDGs), Sustainable Development Goals (SDGs) and the List of Sustainable Development Goals, Global efforts and international instruments/documents safeguarding right to development was highlighted, while Interagency or Multilateral Agreements on, or referring to, Human Rights and Development was the final thing examined.

6.0 TUTOR-MARKED ASSIGNMENT

1. What is Human Development?
2. What is the rationale behind the right to development?
3. What are the areas of coverage of Millennium Development Goals?
4. Describe the Sustainable development Goals and Highlight the Goals.
5. Mention the instruments / documents safeguarding the right to development.

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UNIT 3 HUMAN RIGHTS AND FOREIGN POLICY

CONTENTS

1.0 INTRODUCTION

Since the emergence of the modern international society of states with the treaty of Westphalia (1648), international relations have been based on the principle of sovereignty. Mutual recognition of the sovereign equality of states requires each state to refrain from intervention in the sovereign rights of the other (Dağı, 2001:1). Yet, in the contemporary world of complex relationships, not only the scope and content of 'sovereign' rights of states but also non-intervention as a guiding principle of international relations have become debatable. The emergence of human rights as an international issue has played a significant role in bringing the conventional norms and principles of inter-state relations into debate (Dağı, 2001:1). Most foreign policy decisions on human rights usually reflected to some degree various domestic influences beyond the calculations of national interest held by foreign policy officials. A nation's self-image, current public opinion, extent and nature of bureaucratic in-fighting, legislative independence, political party platforms, authority of sub-federal units, and the like combined to affect national human rights policy abroad (Forsythe, 2000: 6).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- establish a link between Human Rights and Foreign Policy
- Mention the roles/ significance of Human Rights to foreign policy.

3.0 MAIN CONTENT

3.1 Human Rights and Foreign Policy

The phrase "Human Rights" has become so common not because hundreds of millions of people have suddenly taken to studying political philosophy but because it has become a central issue in foreign affairs. The intersection of Foreign Policy … and Human Rights —is the result of the complex interplay between the major actors in the decision making process (APODACA, 2005: 63). The United Nations Charter in its article 55 and 56 required States to cooperate on Human Rights matter and the 1948 Universal Declaration of Human Rights was the Inter Governmental statement in the world history to approve a set of basic principles on Universal Human Rights. Since the 1940s almost all states – not just western states have regularly reaffirmed the existence of Universal Human Rights without negative discrimination occurred most saliently at the 1993 United Nations conference in Vienna (Forsyth and Pieffer, ND:1).

Thus, from a conventional viewpoint, Human Rights and Foreign Policy form an uneasy partnership as each refers to and arranges different political domains. Whereas the former essentially refers to the domestic political structure in which the individual-state relationship is constitutionally determined and practically carried out, the latter conventionally deals with interstate relations without concerning itself with the internal affairs of the other state(s), i.e. the state of human rights (Dağı, 2001:1). It is the states that approves treaties and monitoring mechanisms (Forsyth and Pieffer, ND: 3). A state commitment to pursuing Human rights issues in its foreign policy depends both on its size and on its domestic political values. The frequency and intensity of the conflict between self interest and promoting Human Rights is often proportional to a state's power. A small state have fewer and less complicated Foreign Policy objectives than large states, their Human Rights initiatives are less likely to clash with their political, strategic or economic interests abroad. On the other hand, large states have complex world wide interests which will often conflict with assertive Human Rights policy (Egeland, 1988). States are primarily responsible for the promotions and protection of Human Rights. To a large extent every state's Foreign Policy, pertaining to Human Rights is shaped by its political culture (Forsythe and Pieffer, ND: 1).

3.2 Roles/ Significance of Human Rights to Foreign Policy

Human rights have always played a role in Foreign Policy (Cohen, 2008: 2). Human Rights have a place of their own in Foreign Policy (Baehr and

Castermans- Holleman, 2004: 2). Foreign Policy is a broad abstraction, comprising many separate policies, decisions, actions and reactions. In certain areas of concern such as national security … Foreign Policy may follow a relatively clearly defined and consistent pattern, but other areas of policy decisions may be ad hoc and sometimes inconsistent, and thus difficult to fit into a single pattern …, international Human Rights decisions seem to fall into the latter category (Bilder, 1974: 598). Foreign Policy decisions are frequently the result of a complex interaction of many diverse domestic, international and bureaucratic interests and pressures. It may not be easy for the decisions. Moreover, due to bureaucratic inaccessibility, diplomatic reticence or government secrecy, evidence indicating the actual influence of various factors may be hard to obtain. Where we are seeking to determine the influence of what are likely to be relatively secondary factors, such as Human Rights considerations, these problems may be magnified. In many instances the best we may be able to say is that, in the broadest terms, Human Rights consideration seem to have a relatively " major significant" or negligible role in the relevant decisions (Bilder, 1974: 599).

Human Rights have become the subject of complaint procedures, and reporting procedures, and bilateral and multilateral governmental debates in such a way that it has become almost impossible to ignore the notion of Human Rights in international politics (Baehr and Castermans- Holleman, 2004: 2). There is considerable ambiguity as to what we mean by human consideration. in recent years the term" Human rights" has been used to describe a variety of very different goals and values. these include not only the civil and political liberties embraced in traditional western Human Rights concepts, but also other economic, social and cultural rights, including the rights to self determination, to a decent environment and so forth. As the definition of Human Rights consideration is broadened to include at least quasi political state interests, the apparent political state interests, the apparent role played such consideration will off course broaden accordingly (Bilder, 1974: 599).

If the influence of Human Rights consideration is judged by more traditional criteria such as participation in UN, Human Rights conventions, support for UN efforts against racial discrimination or willingness to condemn oppression in anti – communist or third world dictatorship, one might reach a different conclusion as to their role in Foreign Policy. Human Rights values may conflict. Some countries justify suppression of civil and political liberties as necessary to the achievement of economic and social liberties (Bilder, 1974: 600). There are inherent difficulties both in deciding what constitutes Human Rights considerations and in measuring the

influence of such considerations. Human Rights may play different or even inconsistent roles in different aspects of Foreign Policy depending upon the total configuration of relevant interests and personalities of the individuals involved (Bilder, 1974: 600).

SELF-ASSESSMENT EXERCISE

Examine the link between Human Rights and Foreign Policy.

4.0 CONCLUSION

Human Rights and Foreign Policy form an uneasy partnership as each refers to and arranges different political domains. A state commitment to pursuing Human Rights issues in its Foreign Policy depends both on its size and on its domestic political values. Human Rights may play different or even inconsistent roles in different aspects of foreign policy depending upon the total configuration of relevant interests and personalities of the individuals.

5.0 SUMMARY

The main focus of this unit is establishing the link between Foreign Policy and Human Rights, while outlining the significance/ roles of Human Rights to Foreign Policy.

6.0 TUTOR-MARKED ASSIGNMENT

1. What is the relationship between Human Right and Foreign Policy?
2. How significant is Human Rights to Foreign Policy or vice versa?

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UNIT 4 HUMAN RIGHTS IN AFRICA

CONTENTS

1.0 INTRODUCTION

When the General Assembly of the United Nations adopted the Universal Declaration of Human Rights on 10 December 1948 its members foresaw a future in which justice and equality for all would be realised. Barely Seventy years on, this dream is still to be actualised in many of the world's countries that adopted the Universal Declaration. While many states have laws and principles setting out legal human rights frameworks that are to be commended, in reality, these frameworks all too often remain just that, and Human Rights are not translated into a reality that is lived or experienced on a daily basis by the citizens these frameworks set out to protect. The world in the early 21st Century still has much work to do before the vision of those founding drafters is achieved (Dangor, Johnson and Thipanyane**,** 2007: 2).

Freedom, justice and peace in the world are founded on the recognition of the inherent dignity of all members of the human family, and of their equal and inalienable rights. This pronouncement in the Preamble of the 1948 Universal Declaration of Human Rights means that Human Rights serve to protect and promote the dignity of human beings worldwide. Human Rights can be seen as a legal codification of the concept of human dignity. Despite different regional perceptions and arguments relating to cultural relativism, the concept of *Human Rights* and their universality are generally accepted, although these always have to be seen in their specific contexts (Tutu,2009: v).

The concept of Human Rights has become a global issue. The principle that all men and women are created equal has become the foundation of all democratic societies. It has been observed that opinions of people based on race, personal belief, or social standing form the structure of prejudice and bigotry (Yusuf, ND: 1). This has made the attainment of equal rights to remain a constant struggle. The existence, validity and content of Human Rights continue to be the subject of debate in philosophy and politics. However, Human Rights are defined in both domestic (regional) and international laws. There is, however, a great deal of variance between Human Rights norms are perceived and defined in both, context and how they are upheld in different countries across the regions and the globe (Yusuf, ND: 1). Despite the consensus in, amongst other forums, academic literature that African Human Rights systems are weak and ineffective, the fact that a protection and promotion system is in place needs to be acknowledged. However, such systems have to be filled with life and blood, with serious commitment and professional efficiency (Tutu, 2009: v).

The African Union (AU) has three principal mechanisms for protecting Human Rights on the continent: a Charter, a Commission and a Court all devoted to Human and Peoples' Rights. These are complemented by other specific instruments, by the work of the AU institutions and by various international and national laws. Despite this complex web, Human Rights are still violated in numerous African countries. The reasons stem from the fact that many legal instruments have not been ratified, that the Human Rights system suffers from weak capacity and — crucially — that many AU member states lack the political will to improve the situation (Manrique Gil and Bandone, 2013: 1).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- examine Human Rights in Africa
- discuss the evolution of Human Rights in Africa
- enumerate and explain the Human Rights Architecture in Africa
- identify the extent of Human Rights violation in Africa
- explain the nexus between human right and democracy in Africa.

3.0 MAIN CONTENT

3.1 History of Human Rights in Africa

Human Rights as a legal concept and codification of human dignity was late to arrive in Africa. Its evolution on this continent is to be seen against the background of the dynamic development of Human Rights within the United Nations system and that of international law, although the impetus of this evolution is owed to the struggles within African states in the colonial and post-independence eras (Tutu,2009: v).

Taking it the argument further, Tutu (2009: v) maintained that:

The role of the Organisation of African Unity (OAU) and its successor, the African Union (AU), must also be acknowledged here. Since the OAU's inception in 1963, several organisations, instruments and mechanisms have come to the fore, aiming at promoting and protecting Human Rights in Africa. The adoption of the African Charter on Human and Peoples' Rights in 1981 is considered a milestone in this regard, as are the establishment of the African Commission on Human and Peoples' Rights and the associated African Court of Human and Peoples' Rights. In addition, regional economic communities have set up their own organisations and instruments aiming at promoting Human Rights in their respective regions. These regional and continental provisions should not blur the fact that any state in the world is considered a prime agent in promoting and protecting Human Rights: the benchmark of any civilised society is taken as its state´s commitment to protect the dignity of its citizens.

Fifty-one years (now 68 years) after the United Nations adopted the 1948 Universal Declaration of Human Rights and almost nineteen (now 35 years) years after the Organisation of African Unity (OAU) adopted its own African Charter on Human and Peoples' Rights, the Human Rights situation on the African continent is decidedly bleak. Indeed, achieving genuine respect for Human Rights may constitute the greatest challenge facing Africans in the new millennium (Magnarella, 2000: 17).

3.2 Africa's Human Rights Architecture

The promotion of democratic institutions, good governance and Human Rights is one of the main objectives of the African Union (AU), enshrined in its Constitutive Act (2000). Its predecessor, the Organisation for African Unity (OAU) — founded over 50 years ago, in 1963 — also established several mechanisms for the promotion of Human Rights. Of these the most

important ones include the African Charter on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights (ACHPR) and the African Court of Human and Peoples' Rights. Many other elements complement these, making Africa's human rights architecture a thick web of overlapping international, continental and national-level instruments (Kufuor, 2010: 4).

i. African Charter on Human and People's Rights

The African Charter on Human and People's Rights (Charter) is the foremost legal instrument for the promotion of Human Rights in Africa. It was approved by the OAU's Assembly of Heads of State in 1981 and entered into force on 21 October 1986 after being ratified by a majority of members. In 1999 all OAU members had ratified the Charter and at present, only Africa's newest independent state, South Sudan, has yet to ratify it. A Protocol allowing the creation of the African Court on Human Rights has been subsequently adopted (Manrique Gil and Bandone, 2013: 4). Created under the auspices of the OAU, the African Charter on Human and Peoples' Rights entered into force on 21 October 1986. With the ratification of this Charter, Africa joined Europe and the Americas as one of the three world regions with its own human rights convention (Magnarella, 2000: 21). The great majority of African states had previously ratified the United Nations Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. African leaders felt the "need to develop a scheme of Human Rights norms and principles founded on the historical traditions and values of African civilisations rather than simply reproduce and try to administer the norms and principles derived from the historical experiences of Europe and the Americas (Okoth-Ogendo, 1993: 17)

The African Charter both resembles and departs from the other regional conventions. Charter articles 3-17 list a fairly typical array of individual rights, including rights to equal protection of the law, to life and security, to due process, to education, to own property, to work under equitable and satisfactory conditions, to enjoy the best attainable state of physical and mental health, and to assemble with others. These articles also promise individuals freedom of expression, movement, conscience, religion, and political participation (Magnarella, 2000: 21). The Charter establishes duties for states and individuals and recognizes the most universally accepted civil and political rights, as well as economic, social and cultural rights. Acknowledging the indivisibility and the collective dimension of rights such as self-determination, people's rights to development and the free disposal of natural resources is perhaps the most distinguishing feature of the African human rights system (Centre for Human Rights, 2011)

Magnarella, (2000: 21) gave a generous and comprehensive insight into the charter: he revealed that:

These individual rights are followed by a catalog of peoples' rights. The Charter grants "all peoples" the rights to equality (Art. 19), to self-determination, to freely determine their political status and economic development (Art. 20). In addition, "All peoples shall have the right to national and international security" (Art. 23) and "the right to a general satisfactory environment favourable to their development" (Art. 24). Additionally, the Charter lists obligations that states incur, including the obligation to eliminate every form of "discrimination against women and also censure the protection of the rights of the woman and the child as stipulated in international declarations and conventions" (Art. 18); the obligation to eliminate all forms of foreign and domestic economic exploitation of natural resources (Art. 21); the obligation to promote and ensure the Charter (art. 25); the obligation to guarantee the independence of the courts (Art. 26); and, what is especially African, the obligation to "assist the family which is the custodian of morals and traditional values recognised by the community" (Art. 18). Articles 27 to 29 spell out the duties that an individual incurs "towards his family and society, the State and other legally recognised communities and the international community" (Art. 27). More specifically, these include duties to exercise rights and freedoms "with due regard to the rights of others, collective security, morality and common interest" (Art. 27); to respect "fellow beings without discrimination" (Art. 28); to community, both physically and intellectually; not to compromise the security of the state; respect the family and parents at all times, and "to maintain [parents] in case of need", to serve the national to preserve and strengthen national solidarity, independence and territorial solidarity; to pay taxes; "to preserve and strengthen positive African values"; and to promote African unity (Art. 29).

ii. **African Commission on Human and People's Rights (ACHPR)**

In 1987, the OAU created the African Human Rights Commission, in accordance with Charter Article 30, to promote Human Rights and to monitor compliance by African States with their obligations under the charter. The commission is comprised of eleven persons "chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality, and competence in matters of human and peoples' rights; particular consideration being given to persons having legal experience" (Art. 31) (Magnarella, 2000: 21). The organ tasked with the interpretation of the Charter, as well as investigating individual

complaints referring to its violation is the African Commission on Human and Peoples' Rights (ACHPR). The ACHPR was established according to Art. 30 of Charter and was inaugurated in November 1987. The ACHPR meets on ordinary session twice a year and has its Secretariat in Banjul (Gambia). As a body formally dependent from the AU, the 11 individual members who form the ACHPR are elected by the AU Assembly among the experts nominated by member states. The commissioners subsequently elect a Chairperson and Vice-Chairperson-these posts are currently held by Ms. Catherine Dupe Atoki (Nigeria) and Ms. Zainabo Sylvie Kayitesi (Rwanda). The work of the ACHPR is supported by 15 special mechanisms including special rapporteurs and working groups (Manrique Gil and Bandone, 2013: 4).

The ACHPR can issue non-binding resolutions, and it has delivered around 300 recommendations via resolutions and communication since it began its work. It has also engaged on a number of promotional missions. So far however, its powers of persuasion and influence have not always been effective. For example, state parties to the African Charter are expected to submit reports to the ACHPR every two years (Manrique Gil and Bandone, 2013: 5). OAU Secretary General Salim (cited in Magnarella, 2000: 23) maintains that the absence of adequate institutions to monitor, promote and protect Human Rights has tarnished Africa's image, so that many view it as being a continent without the rule of law. He maintains that Africa's Human Rights charter has failed because politicians and strong men have refused to support it.

iii. African Court of Human and People's Rights

The adoption of the African Charter on Human and Peoples' Rights in 1981 is considered a milestone, as are the establishment of the African Commission on Human and Peoples' Rights and the associated African Court of Human and Peoples' Rights (Tutu, 2009 : vi). A Protocol to the African Charter establishing the African Court of Human and Peoples' Rights (Court) was approved in 1998, and entered into force in 2004. The seat of the Court is Arusha (Tanzania) and it meets four times a year. The court has 11 judges elected by the AU Assembly; in September 2012 the Court elected Justice Sophia A. B. Akuffo (Ghana) as President and Justice Fatsah Ouguergouz (Algeria) as Vice-President for a two-year term. The Court has jurisdiction over the cases and disputes submitted to it concerning the interpretation and application of the African Charter, thus complementing the mandate of the ACHPR. The Court's jurisdiction applies only to the 26 states which so far have ratified the Court's Protocol. Complaints by individuals and Non-Governmental Organisations (NGOs)

are investigated by the Court upon referral by the ACHPR (Manrique Gil and Bandone, 2013: 6).

In 2003 the AU approved the Protocol on the Establishment of the African Court of Justice, which was intended to deal with matters related to economic integration and matters of a political nature. In 2008 a new Protocol was adopted for merging both institutions (Merged Court Protocol) — even if the court of Justice had never come into existence. This court would have two sections: one for general affairs, the other for human rights. Of the 15 member states needed to ratify the Protocol in order to come into force, so far only three have done so (Viljoen , 2012 cited in Manrique Gil and Bandone, 2013: 6). A further complication has emerged in the interim period, as a new draft protocol has been developed by the AU giving the merged court an additional competence to deal with individual criminal responsibility (Manrique Gil and Bandone, 2013: 6).

3.3 Violation of Human Rights in Africa

A recent OAU report attributed Africa's poor Human Rights record mainly to racism, post-colonialism, poverty, ignorance, disease, religious intolerance, internal conflicts, debt, bad management, corruption, the monopoly of power, the lack of judicial and press autonomy, and border conflicts. Poverty is certainly an endemic factor. More than seventy-five percent of the continent's 700 million live below the poverty line, and ten of the world's thirteen poorest countries are in Africa. Africa's troubling situation, however, is not unique (Magnarella, 2000: 19). The following elements comprise the system leading to human rights violations:

- Undeveloped economies, with limited resource bases and insufficient employment/income opportunities for large segments of the population resulting in wide-spread poverty
- High population growth rates further straining the natural environment and local resources, while intensifying competition for resources
- Ethnic diversity and/or regional factionalism promoting local/particularistic identifications, while hindering the development of a national identification;
- ethnic and/or class politics involving competition among leaders of different language, cultural, or regional populations for state positions of political and economic power with the spoils of victory going to supporters;

- Lack of regime legitimacy as those large segments of the population not culturally and/or politically affiliated with the ruling elite and not sharing in the spoils refuses to recognize the regime as legitimate;
- Resort to military/police force to maintain power by suppressing political opponents and disgruntled civilians;
- Violation of economic, civil, and political rights by the regime on the pretext of "national security" (Magnarella, 1993). Unfortunately, most African countries share these elements. Part of the reason stems from the negative impact that colonialism has had on Africa's indigenous ethno-political traditions (Magnarella, 2000: 19).

The ever increasing number of African countries afflicted by war and associated human rights abuses. Fighting has raged in Sierra Leone, Guinea Bissau, Angola, Congo, the Democratic Republic of Congo, Somalia, Rwanda and Burundi, Ethiopia and Eritrea (Amnesty International 1999). The same month, a report by the Coalition to Stop the Use of Child Soldiers estimated that more than 120,000 children from ages seven to seventeen were being exploited as soldiers across Africa. Some of these children voluntarily joined government or revolutionary armed forces, but tens of thousands of them were forced to become soldiers at gunpoint (Gu, 1999). The United Nations High Commissioner for Refugees estimated that in 1998 there were about 3.5 million refugees in Africa, eighty percent of them women and children under the age of five. In its 1999 survey, Human Rights Watch (HRW) reported that Africa's refugee population had increased to 6.3 million. "Of the ten top refugee producers in the world, five were African: Burundi, Eritrea, Sierra Leone, Somalia, and Sudan". In general, HRW concluded that "much of Africa made little headway in adjusting to the imperatives of democratic rule and respect for Human Rights" (Human Rights Watch 2000 cited in Magnarella, 2000: 19).

3.4 Democracy and Human Rights in Africa

Democracy may not be a panacea to cure all ills, but it has its origins in the political rights of the individual as they are laid down in all conventional instruments, and on its part it also contributes to stabilising and strengthening Human Rights. Article 21 UDHR contains everything that is conceivable in terms of political rights of the citizen in a democratic polity (Tomuschat, 2003). The values of freedom, respect for Human Rights and the principle of holding periodic and genuine elections by universal suffrage are essential elements of democracy. In turn, democracy provides the natural environment for the protection and effective realisation of Human Rights. These values are embodied in the Universal Declaration of Human Rights and further developed in the International Covenant on Civil

and Political Rights which enshrines a host of political rights and civil liberties underpinning meaningful democracies (Commission on Human Rights resolution, 2002).

Taking the argument further, Commission on Human Rights resolution, (2002) revealed that: The link between democracy and Human Rights is captured in article 21(3) of the Universal Declaration of Human Rights, which states that:

"The will of the people shall be the basis of the authority of government; this will, shall 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."

The rights enshrined in the International Covenant on Economic, Social and Cultural Rights and subsequent human rights instruments covering group rights (e.g. indigenous peoples, minorities, people with disabilities) are equally essential for democracy as they ensure an equitable distribution of wealth, and equality and equity in respect of access to civil and political rights. Democracy deficits and weak institutions are among the main challenges to the effective realization of Human Rights (Commission on Human Rights resolution, 2002). Two important developments extended and deepened Africa's commitment to Human Rights, democracy, governance and development. The first was the adoption of the African Union's Constitutive Act, which reaffirms Africa's commitment to promote and protect Human |Rights. The second was the New Partnership for Africa's Development (NEPAD), which also places Human Rights at the centre of development. Both aims to reinforce social, economic and cultural rights, as well as the right to development (Gawanas, ND: 138).

Two expert seminars organised by OHCHR in 2002 and 2005 shed light on the main challenges to democracy, human rights and the rule of law, which is most prevalent in Africa including:

- Deepening poverty
- Threats to human security
- The infringements of individual rights and impediments to the enjoyment of fundamental freedoms
- Erosions of the rule of law in contexts such as counter-terrorism
- Illegal occupation involving the use of force
- The escalation of armed conflicts
- Unequal access to justice by disadvantaged groups

- Impunity
  Gawanas, (ND: 138) maintained that, the establishment of the AU was hailed as a welcome opportunity to put Human Rights firmly on the African agenda. The AU's Constitutive Act, adopted in 2000, marks a major departure from the OAU Charter in the following respects:

- Moving from non-interference to non-indifference, including the right of the AU to intervene in any member state's affairs
- Explicit recognition of Human Rights
- Promotion of social, economic and cultural development
- An approach based on human-centred development, and
- Gender equality.

In a coherent and explicit manner, Gawanas, (ND: 138) sums his argument on democracy and human right in Africa in thus:

Given the dynamism of human rights, both the OAU and AU began to take on broad emerging human rights issues over the years, as evidenced by the increasing number of conferences, meetings, declarations and resolutions adopted pertaining to Human Rights, in addition to the express Human Rights instruments such as the African Charter on Human and People's Rights (ACHPR), the African Charter on the Rights and Welfare of the Child (ACRWC), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Protocol on the Establishment of the African Court on Human and People's Rights, and the Charter on Democracy, Governance and Elections. To effectively enforce these instruments, various bodies were established with an express Human Rights mandate such as the African Commission on the Charter on Human and Peoples' Rights (the African Commission), the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), and the African Court.

The greatest protection of Human Rights emanates from a democratic framework grounded in the rule of law. A functional democracy that accommodates diversity is increasingly becoming the planet's best bet against the concentration of power in the hands of a few and the abuse that inevitably results from it. The Commonwealth as well as Africa too, rejects foreign domination, authoritarian dictatorships, military regimes and one-party rule.

SELF-ASSESSMENT EXERCISE

Discuss in detail Human Right in Africa.

4.0 CONCLUSION

The principle that all men and women are created equal has become the foundation of all democratic societies. It has been observed that opinions of people based on race, personal belief, or social standing form the structure of prejudice and bigotry. The African Union (AU) has three principal mechanisms for protecting Human Rights on the continent: a Charter, a Commission and a Court all devoted to Human and Peoples' Rights. These are complemented by other specific instruments, by the work of the AU institutions and by various international and national laws. The United Nations High Commissioner for Refugees estimated that in 1998 there were about 3.5 million refugees in Africa, eighty percent of them women and children under the age of five. The values of freedom, respect for Human Rights and the principle of holding periodic and genuine elections by universal suffrage are essential elements of democracy. In turn, democracy provides the natural environment for the protection and effective realisation of Human Rights.

5.0 SUMMARY

Human Right in Africa is the main focus of this unit. We have x-rayed the evolution of human right in Africa, examined the architecture of Human Right in Africa, the violation and the extent of it, trace the relationship between Human Rights and Democracy.

6.0 TUTOR-MARKED ASSIGNMENT

1. Trace the history of human right in Africa.
2. Identify and explain the Human Right Architecture in Africa.
3. What accounts for Human right violation in Africa?
4. What is the relationship between human right and democracy.

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UNIT 5 HUMAN RIGHTS IN NIGERIA

CONTENTS

1.0 INTRODUCTION

The concept of human rights has become a global issue. The principle that all men and women are created equal has become the foundation of all democratic societies. It has been observed that opinions of people based on race, personal belief, or social standing form the structure of prejudice and bigotry. This has made the attainment of equal rights to remain a constant struggle. The existence, validity and content of Human Rights continue to be the subject of debate in philosophy and politics. However, Human Rights are defined in both domestic and international laws (Yusuf, ND: 1). Since the adoption of the Universal Declaration of Human Rights in 1948,

Human Rights have not only acquired global status and importance but have grown tremendously both in conception and content. While the internationalisation of human rights was energized and strengthened by a number of developments, the present status of human rights in Nigeria is also not without any historical antecedents (Dada, 2013: 1).

When the United Nations introduced the Universal Declaration of Human Rights in 1948, it was seen by many as a sign of optimism, of the possibilities of a better world. Yet over 50 years later, observers recognise that we live in an age when human rights abuses are as prevalent as they have ever been; in some instances more prevalent. The world is littered

with examples of violation of basic rights: censorship, discrimination, political imprisonment, torture, slavery, the death penalty, disappearances, genocide, poverty, refugees. The rights of women, children and other groups in society continue to be ignored in atrocious ways. The environmental crisis takes the discourse on rights to a different level (O'Byrne, 2003 quoted in Dada, 2012: 67).

Nigeria's emergence as a state in 1960, legally thrusted her into the web of recognised and member states of the United Nations, which had over a decade earlier, adopted a universal framework for observance and protection of Human Rights as a fundamental precept of statehood. As implicit in the Declaration by the then Prime Minister of Nigeria "...we are committed to the principle upon which the United Nations is founded, there is a tacit acceptance of the "Universal Declaration of Human Rights" as an essential corollary in the country's subscription to the ideals of the United Nations, and also essential nature of its statehood (Animashaun, 2013: 59).

The promotion and protection of human rights have engaged the attention of the world community, and though Nigeria has subscribed to major international human rights instruments, violations continue to occur with disturbing frequency and regularity in the nation (Dada, 2012: 67).

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- review the emergence of human right in nigeria
- enumerate the fundamental human rights in nigeria
- identify the international human rights instruments ratified by nigeria,
- analyse the extent of human rights violation in nigeria
- specify agencies responsible for the protection of human rights in nigeria
- itemise the factors limiting human rights goals in nigeria

3.0 MAIN CONTENT

3.1 History of Human Rights in Nigeria

The history of human rights in Nigeria predates the advent of colonial rule. Human rights and fundamental freedoms were recognised in the traditional Nigerian societies. The idea of rights was not however conceived in the

modern notion. Such values as right to family, kin and clan membership, freedom of thought, speech, belief and association, right to enjoy private property and right to participate in governance of the affairs of the society were jealously guarded (Federal Republic of Nigeria, 2006: 3). The concern for Human Rights is as old as humanity itself. In fact, the expression 'Human Rights' as term or art is of recent origin, but the idea of the inalienable rights' of man predates the very political system, which produces the law-making institutions, as we know them today (ojo, 2006: 15). Human Rights have enjoyed tremendous attention and expansion at the global level. To concretise and energise Human Rights protection at national level, virtually all national constitutions embody Human Rights either in their preamble or substantive provisions.

In Nigeria, Human Rights are embodied in two separate chapters, encapsulating both the civil and political rights and the economic, social and cultural rights (Dada, 2012: 33). In Nigerian Constitutions, beginning from the post-independence constitution, due attention has always been given to the issue of human rights. In the 1960 independence Constitution, 1963 Republican Constitution and 1979 Constitution, provisions were made for Human Rights protection. Further, in the 1999 Constitution (as amended) two Chapters, spanning 26 (twenty six) sections are devoted to human rights subject. The need for constitutional provisions for Human Rights cannot be over-emphasised because, it is the state, with its various institutions which is primarily responsible for guaranteeing the implementation and enforcement of these rights in respect of its citizens and all those coming under its jurisdiction (Dada, 2012: 33).

The gross inequalities among the constituent groups in terms of size, resource endowment, socio economic development (particularly education, which is generally regarded as the access to, and actual holders of state power (representation in the bureaucracy, armed forces, cabinet and other government institutions) and the struggles to redress them make control of government institutions of central concern to the different groups. Therefore, to guarantee and safeguard rights, historical imbalances and inequalities between and among various groups in a plural and divided society like Nigeria to have fair and equal opportunities in all sectors of public life matter not only to peace and tranquillity but also 'human right'. In essence, it is this realisation that informed the decision of multi-ethnic countries like Nigeria and Canada including India, to entrench affirmative action policies in their constitutions (Ojo, 2006: 18).

The Constitutions operated in Nigeria prior to independence were designed to achieve specific political objectives of the colonialists without any

formal or conscious attempt by the colonial government to safeguard Human Rights in its entirety. This could not have been otherwise as colonialism was antithetical to Human Rights protection (Ajomo,1991 quoted in Dada, 2012). Colonialism largely eroded traditional values and denied Nigerian's political and economic rights (Federal Republic of Nigeria, 2006: 3). Colonial administration in Nigeria as in most colonized countries had a dismal record of Human Rights recognition and protection.

The advent of the colonialists inevitably made the Nigerian societies become subject to the political, economic and social domination and subjugation of the colonial power (Dada, 2013:3). Although pre-independence Constitutions did not specifically guarantee Human Rights promotion and protection, it is significant to note that successive pre-independence constitutional conferences dating back to 1953 recognised and advocated the need for the inclusion of certain fundamental rights in the future constitution. Yet, the eventual adoption of a bill of right by Nigeria in its Independence Constitution in 1960 was informed by and predicated on the need to allay the fear of domination of the over 100 ethnic nationalities by the three major tribes (Ajomo,1991 quoted in Dada, 2012)
It is significant to note that, since the introduction of a bill of right in the Independence Constitution in 1960, subsequent Constitutions, starting with the Republican Constitution, 1963 to the 1979 (even up to 1999) Constitution, have not failed to incorporate these rights in their provisions (Ajomo, 1992:79). Hence, in spite of the traumatic experiences of the political crises, including the period of civil war of 1967 to 1970, the rights have remained the same" i.e. they have not been extinguished by any regime be it military or civilian. That does not mean that they have not been assaulted and threatened; the truth is that they have remained in our statute books ever since even if for cosmetic purposes (Dada, 2012: 36).

Dada, (2012: 36) giving us a clearer insight into the evolution and development of Human Rights in Nigeria further revealed that:

It can be rightly asserted that one of the greatest objectives of the post independence Nigerian Constitutions is the protection and promotion of Human Rights. The preamble to the 1999 Constitution unmistakably set the tone by dedicating itself to promote "good government and welfare of all persons on the principles of freedom, equality and Justice". Apart from the preamble, chapters two and four of the Constitution extensively deal with Human Rights issues. While chapter two is captioned, Fundamental Objectives and Directive Principles of State Policy, chapter four is entitled, "fundamental rights". Under the Fundamental Objective and Direct Principles of State Policy, the second generation rights, consisting of

economic, social and cultural rights are extensively set out in sections 13 to 21. These rights are predicated on the necessity for the material well-being of the citizenry with the state playing a pivotal role. These rights which are essentially equalitarian and egalitarian in character are rooted on the belief that the attainment of certain level of social and economic standard is a necessary condition for the enjoyment of the civil and political rights.

3.2 List of Fundamental Human Rights in Nigeria

The entrenchment of fundamental human rights in Nigeria in the modern sense could however be traced to the 1960 Independence Constitution and those that followed. The Independence Constitution of 1960 and the Republican Constitution of 1963 have provisions for the protection of fundamental human rights. The 1979 and the 1999 Constitutions went further by providing a bill of rights. Fundamental Objectives and Directive Principles of State Policy in Chapter II also recognized Economic, Social and Cultural Rights (Federal Republic of Nigeria, 2006: 3). Examples of rights and freedoms which are often thought of as human rights include civil and political rights, such as the right to life and liberty, freedom of expression, and equality before the law; and social, cultural and economic rights, including the right to participate in culture, the right to food, the right to work, and the right to education (Yusuf, ND: 5). The entrenchment of human rights provisions in our Constitutions was aimed at creating a society which protects political freedom as well as the social and economic well-being of Nigerians (Federal Republic of Nigeria, 2006: 3)

In the 1999 Nigeria constitution, some of the rights generally recognised as fundamental are: Right to life; Right to marry; Right to procreate;

Right to raise children free from unnecessary governmental interference;
Right to freedom of association; of expression;
Right to equality of treatment before the law (fair legal procedures);
Right to freedom of thought;
Right to religious belief;
Right to choose when and where to acquire formal education;
Right to pursue happiness;
Right to vote;
Right to freedom of contract;
Right to privacy;
Right to interstate travel (Yusuf, ND: 5)

Due to Nigeria's peculiar existential realities as a polity that has been alternating between democracy and military autocracy, we can classify all

elements of human rights into two. First, we have those ones which are totally unaffected by the fact that the polity is being governed by the military. Secondly, we have those rights, which are necessarily affected by the existence of a military government (Ojo, 2006:19). The first category included: (i) the right to life; (ii) the rights to human dignity; (iii) right to private and family life; (iv) rights to freedom from discrimination and (v) the right to receive compensation for compulsory acquisition of property. The second category of rights which are affected by military governments are: (i) rights to personal liberty; (ii) right to fair hearing; (iii) freedom of expression; (iv) right to peaceful assembly; (v) freedom of association and (vi) right to free movement (Williams, 1985 quoted Ojo, 2006: 19).

In all regions and climes, the constitution is a major safeguard of the rights of man. The constitutions normally do stipulate the catalogue of the fundamental rights of the citizens. The following civil and political rights are guaranteed by the 1999 Nigerian constitution; The right to life (section 33); the right to dignity of (the) human person (section 24); the right to personal liberty (section 35); the right to fair hearing (section 36); the right to family life (section 37); the right to freedom of thought, conscience and religion (section 38); the right to freedom of expression and of the press (section 39); the right to peaceful assembly and association (section 40); the right to freedom of movement (section 41); the right to freedom from discrimination (section 42); and the right to acquire and own immovable property anywhere in Nigeria (section 43) (FRN, 1999 quoted in Ojo, 2006:). Any restrictions on these rights on the basis of race or religion are unacceptable. If they are denied to everyone, it is an issue of substantive due process. If they are denied to some individuals but not others, it is an issue of equal protection.

3.3 International Human Rights Instruments, Ratified By Nigeria

In terms of international Human Rights Instruments, Nigeria has ratified, among others, the following conventions (adapted from Arla, 2015: 15):

- Convention on Civil and Political Rights (CCPR 1993) - though not its protocol on individual complaints and abolishing the death penalty.
- Convention on Economic, Social and Cultural Rights (CESCR 1993).
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD 1969).

- UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1984) and the Optional (optional) Additional Protocol on individual complaints (2004).
- The Convention on the Rights of the Child (CRC 1991), its protocol on children in armed conflict and on the sale of children, child prostitution and child pornography (2000).
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT 2001).
- Convention on the Status of Refugees (1995).
- African Charter on Human and Peoples' Rights

3.4 National Human Rights Commission in Nigeria

In recent years, there has been an upsurge of international attention on the role of National Human Rights Institutions (NHRIs) in the promotion and protection of human rights. This growing interest is explained by an increased understanding and recognition among states, international and non governmental organisations of the important role NHRIs play in promoting and protecting human rights (Okene, 2010). A National Human Rights Institution is established on the premise that the existence of laws alone is not enough to assure the rights of the individual within the societal framework. The institution is in turn created to act as a support within that framework and is generally defined as a body whose function it is to promote and protect human rights. The Institution is most commonly of an administrative nature, granted neither judicial or law making powers.

However, it is not uncommon to find institutions that combine administrative and quasi-judicial elements. In some cases, the Constitution provides the basis for the establishment of such Institutions though, in most cases, laws or decrees create them. These bodies may be attached, though not subordinate, to the executive or legislative branch of government (Pinheiro and Baluarte, 2000: 2).

Effective national systems which protect and promote good governance, the rule of law, and the realisation of human rights are important for sustainable human development. Among the components of such systems are governments which accept primary responsibility for the promotion and protection of human rights and the functioning of independent National Human Rights Institutions (NHRIs) which conform with the Paris Principles (Clark and Pillay, 2010: i). Though some countries have extensive experience protecting Human Rights, the National Human Rights Institution began to take on an increasingly important role over the past two

decades in a wide variety of national contexts. The structural and functional diversity of the Institutions which have since evolved is relatively great due to the fact that they reflect the particularities of the political regimes and regional differences of the countries in which they have been formed. In spite of this, these institutions may be grouped into three broad categories: "Human Rights Commissions", "Ombudsmen" and other "Parliamentary Human Rights Bodies" and "Specialised Human Rights Agencies". Though in many cases the title of these bodies is not a definitive guide to their functions, the definitions that follow present a set of guidelines to aid in the understanding of the role played by these institutions in the national human rights apparatus (Pinheiro and Baluarte, 2000: 2).

The UN is currently providing NHRIs in more than sixty countries with technical assistance. The variation in the numbers of NHRIs that exist around the world, put forward by scholars is puzzling. For instance, Data provided by many of these scholars which was quoted in Lagoutte, Kristiansen and Thonbo (2016: 1) revealed thus: Sonia Cardenas talks about “300 to 500”, Koo and Ramirez “178” NHRIs, and Cole and Ramirez write “By 2004, nearly 180 NHRIs”. NHRIs can help ensure that national development, poverty reduction, and MDG policies and strategies are not only grounded within human rights, but also are implemented according to Human Rights’ standards and principles. NHRIs are also the best mechanism at the country level to ensure adherence to international human rights’ commitments states make, including to those from the UN Treaty Bodies, special procedure mandate holders, and the UN Human Rights Council. NHRIs have a crucial role to play in advocating for those responsibilities to be translated into law and practice (Clark and Pillay, 2010: i). The main objective of the Human Rights Commission is to ensure that the laws and regulations concerning the promotion and protection of human rights are effectively applied. Most Commissions function independently of the government though they are often required by law to submit reports to the legislature. Though the focus of these Commissions was initially centered on the defence of civil and political rights, they have responded to the increased trend of State ratification of the International Covenant by including economic, social and cultural rights in their agendas (Pinheiro and Baluarte, 2000: 2).

The Commission realises its objective in a number of ways. One of its most important roles is to receive and investigate complaints of human rights abuses. The Commission's role in the investigation and resolution of complaints is, in some cases, primarily one of conciliation or arbitration.

Although they are rarely granted authority to impose legally binding outcomes to parties to a complaint, there exist the possibilities of forming special tribunals or transferring the case to civilian courts as a means of offering a more definite resolution (Pinheiro and Baluarte, 2000: 2). NHRIs in different countries operate under very different and sometimes very difficult circumstances. Any NHRI has its own list of priorities in terms of problems to be solved in its particular context (Lagoutte, Kristiansen and Thonbo 2016: 1). Finally, the Commission is often entrusted with the important responsibility of improving community awareness of human rights issues. This is achieved by informing the community of the Commission's purpose and function, organising seminars, holding counselling services and meetings and producing and disseminating Human Rights publications (UN, Human Rights Fact Sheet #19).

The growing interest in the creation and reinforcement of independent, pluralistic national institutions for the promotion and protection of Human Rights has become increasingly apparent since the Vienna Declaration.

This trend was officially recognised and endorsed by the Commission on Human Rights in its resolution 1999/72. Indicators of this international trend include various conferences and workshops which have been organised to act as mediums of exchange and instruction for National Institutions. The strengthening of regional cooperation among National Human Rights Institutions is demonstrated by the large number of meetings held during the late 1990s (Pinheiro and Baluarte, 2000: 8). The …Regional Conference of African National Human Rights Institutions was held in Durban, South Africa, from 30 June to 3 July 1998.The conference, convened by the Office of the High Commissioner and the Coordinating Committee of African National Institutions, was attended by the High Commissioner and was hosted by the South African Human Rights Commission. The Declaration adopted in Durban by National Institutions recognised the importance of creating and developing national human rights institutions in African countries in conformity with the Paris Principles- in order to ensure their credibility, integrity, independence and effectiveness (Pinheiro and Baluarte, 2000: 8). Over the past two decades, countries in Latin America, Africa, Central and Eastern Europe, Asia and the Near East, have shown an increased interest in defending the human rights of their inhabitants (Pinheiro and Baluarte, 2000: 12).

The National Human Rights Commission of Nigeria was established in 1995. It monitors Human Rights in Nigeria, assists victims of Human Rights violations, and helps in the formulation of the Nigerian Government's policies on Human Rights. The Commission has been active

in investigation and monitoring of numerous Human Rights situations since its founding. The current Executive Secretary is Prof. Bem Angwe and the former chair is Chidi Anselm Odinkalu (Wikipedia, 2016). The creation of National Human Rights Institutions is viewed as an important governmental step in becoming a legitimate member of the international community. Aware of this, governments may take this step without true commitment to the cause in an attempt to gain this recognition, afterwards attempting to nullify the work of the Institution. The ways in which a government can do this are numerous, one of the most common is that the government simply ignores the recommendations of the Institution. This is dangerous not only because it results in Human Rights abuses going unchecked, but because it can actually contribute to the impunity and non-accountability of human rights violators (Pinheiro and Baluarte, 2000: 23).

3.5 Human Rights Violation in Nigeria

The enjoyment of selected Human Rights in Nigeria has been a struggle in reality (Arla, 2015: 16). It is however sad that adequate protection of Human Rights in Nigeria for decades has been a mirage even at the face of constitutional backing. A lot of Human Rights violations are noticed daily. David (2014)7 in tracing the history of Human Rights abuse in Nigeria explained that the history of Human Right abuse in Nigeria is as old as Nigeria, herself. This is because the creation of the nation, Nigeria, was an abuse of the fundamental Human Right of the various entities that make up the Nigerian state. The approval of the various groups was not sought before they were merged as a nation (Ikpeme, 2014). Reawaken the consciousness of the extant literature on Human Rights to what he called groups rights. He averred that in Nigeria and other Third World states where different ethnic groups were put together by the colonial authorities to form the new state and where, in the absence of a strong and relatively autonomous private sector, state power is the only viable means of social reproduction, the need to have rights which ensure that state power as exercised by governments will not be used to perpetuate sectional interests cannot be overemphasized (Osaghae, 1996 cited in Ojo, 2006: 18).

The enjoyment of selected Human Rights has been a struggle in reality. The implementation and embedding of the aforementioned covenants has been difficult with many examples of Human Rights violations and emerging vulnerable groups (Arla, 2015: 16). When considering the Respect for the Integrity of the Person, Including Freedom from Arbitrary or Unlawful Deprivation of Life, the government and its agents committed numerous arbitrary or unlawful killings. The national police, army, and other security services committed extrajudicial killings and used lethal and excessive

force to apprehend criminals and suspects as well as to disperse protesters. Abductions of civilians by criminal groups occurred in the Niger Delta and the south-east. Other parts of the country also experienced a significant increase in abductions. (Arla, 2015: 16).

Prominent figures were often targets of abduction, largely due to their wealth. Kidnappers rarely announced political motives for abductions (Human Rights Country Report, Nigeria, 2014 cited in Arla, 2015: 16). The impunity that has characterised the cycles of violence in the Middle Belt and public corruption and embezzlement of the country's oil wealth require urgent attention. It is, however, the conflict in the north east of the country that has involved the most egregious human rights abuses. Human Rights Watch believes that around 7,000 civilians have been killed since 2010 and more than a million people are displaced (Human Rights Watch, 2015, Arla, 2015: 16). It has further led to increased stunting, high levels of malnutrition, increased levels of unemployment and, hence, a deterioration to the right to adequate standard of living (Arla, 2015: 16).

Beginning with litigating and documenting cases of Human Rights abuse by the police and military officials, and exposing the conditions in prisons and police jails, the group's successes and challenges laid the foundation for the growth of the Nigeria's Human Rights movement. The last fifteen years has witnessed the establishment of over two hundred Human Rights organisations in various parts of Nigeria. At the initial stage the focus of most of the groups was on traditional Human Rights concerns such as Police abuse, prison condition, campaign against torture, long detention without trial, extra judicial killing and general litigation on specific cases of Human Rights violation (Shettima and Chukwuma, 2002: 12).

The most serious Human Rights abuses during the year were those committed by Boko Haram, which conducted killings, bombings, abduction and rape of women, and other attacks throughout the country, resulting in numerous deaths, injuries, and widespread destruction of property; those committed by security services, which perpetrated extrajudicial killings, torture, rape, beatings, arbitrary detention, mistreatment of detainees, and destruction of property; and widespread societal violence, including ethnic, regional, and religious violence (Nigeria Human Rights Report, 2013). Other serious Human Rights problems included vigilante killings; prolonged pre-trial detention; denial of fair public trial; executive influence on the judiciary; infringements on citizens' privacy rights; restrictions on the freedoms of speech, press, assembly, religion, and movement; official corruption; violence against women; child abuse; female genital mutilation/cutting (FMG/C); infanticide; sexual exploitation of children;

trafficking in persons; discrimination based on sexual orientation, gender identity, ethnicity, regional origin, religion, and disability; forced and bonded labor; and child labor (Nigeria Human Rights Report, 2013).

A specifically vulnerable group remains women and children. Forced labour remains widespread. Women and girls are subjected to forced labour in domestic servitude, while boys are subjected to forced labour in street vending, mining, agriculture and begging (Arla, 2015: 16).

Prison and detention conditions remained harsh and life threatening. Most prisons were built 70 to 80 years ago and lack functioning basic facilities. Thus, making the prisons congested. A Human Rights organisation estimated in 1999 that at least one inmate died per day in the Kirikiri Maximum prison in Lagos alone. The government acknowledged the problem of overcrowding as the main cause of the harsh conditions common in the prison system. According to government sources, approximately 45,000 inmates were held in a system of 148 prisons (and 83 satellite prisons) with a maximum designed capacity of 33,348 prisoners some human rights group estimate a higher number of inmates – perhaps as many as 47,000 (Ojo, 2006: 24). unhesitatingly declared that major sources of Human Rights abuse are the various military Decrees and Edicts promulgated which oust the jurisdiction of the courts and that since the inception of military rule in Nigeria, there have been flagrant violations of Human Rights by way of prevention of exercise of basic Human Rights, ouster of court's jurisdiction, retrospective legislation etc (Mojeed,2005).

3.6 Civil Society Organisations Promoting Human Rights in Nigeria

The following are the agencies responsible for the protection of Human Rights in Nigeria:
Civil Liberties Organisation (CLO), Human Rights Lawyer, Project Alert, Ikeja, Shelter Rights Initiative, Institute for Human Rights and Humanitarian law, Movement for the Survival of Ogoni People (MOSOP), Human Rights Monitor, Child Foundation Organisation, Community Action for Popular Participation (CAPP) (Shettima and Chukwuma, 2002)
Others are: Action Health Incorporated, Action aid International Nigeria, Ajegunle Community Project, Centa for Organisational Development (C.O.D), Centre for Twenty First Century Issues (C21st), Centre for Human Empowerment, Advancement and Development, Centre for the Rule of Law (CENTROLAW), Centre for Women's Health and Information (CEWIN), Committee For the Defense of Hunan Rights (CDHR), Community Empowerment Partners International (CEPI), Environmental

Rights Action/Friends of the Earth (ERA/FOEN), Gender and Development Action (GADA), Gender Child and Rights Initiative, Girls Power Initiative, Global Health Awareness Research Foundation (GHARF), Enugu, Human Angle, Kudirat Intiative for Democracy (KIND), Labour Health and Rights Development Centre, Lady Mechanic Initiative, Legal Defense and Assistance Project (LEDAP), Legal Research Resource and Documentation Centre, Yaba, Model Missions of Assistance in Africa (Momi Africa), Organisation for Non-Formal Education Foundation (ONEF), Organisation for the Child, Woman and Family, Project Alert on Violence Against Women, Utmost Caring World, Widow's Development Support Services (WADSS), Women Law and Development Centre (WLDCN), Women Protection Organisation (WOPO), Women's Center for Peace and Development (WOPED), Women's Health and Rights Project (WHARP), Women's Optimum Development Foundation (WODEF), Women's Rights Advancement and Protection Alternative (WRAPA), African Women Lawyers Association (AWLA), Development Communications Network (DEVCOMS), Henrich Boll Foundation (HBF), International Federation of Women Lawyers (FIDA), International Press Centre (IPC), National Association of Democratic Lawyers (NADL), Women Information Network (WINET), Enugu, Women's Organisation for Representation and National Cohesion (WORNACO) (CEDAW, 2008)

Currently, there are approximately 80 registered independent organisations working for Human Rights in Nigeria, including Amnesty International, the Centre for Democracy and Development, Action Aid and Global Rights Nigeria. Many of those working for Human Rights are doing so in the broader sense, such as coverage of individual legal interests, the situation of women, the rehabilitation of prisoners and research in order to develop democratic institutions (Report on Human Rights in Nigeria, 2010)

3.7 Factors Limiting Human Rights Goals in Nigeria

For Dada (2012: 70) the impediments to Human Rights promotion and protection in Nigeria can be classified as constitutional, social, and political, among others. Many constitutional provisions on Human Rights, rather than energise and galvanise Human Rights goals, obviously limit and undermine them. For instance, there are numerous derogation clauses which are not only too wide but ill-defined and nebulous. This constitutes a formidable weakness which can gravely undermine Human Rights promotion. Similarly, the socio-political environment in Nigeria is not sufficiently clement or conducive to meaningful Human Rights regime. Often, government exhibits regrettable autocratic tendencies and erects a

culture of impunity by regular disobedience to court orders. The result is that those who have the material means to seek legal redress are often left with no remedy. Nigeria, with its long history of military rule, has witnessed monumental infractions of Human Rights. There are various dimensions of military rule which are antithetical to the protection and promotion of Human Rights. The passing of retrospective penal legislation, placement of the burden of proof in criminal cases on the accused, and executive lawlessness and disobedience of lawful orders of the court (Dada (2012 : 78). Human Rights protection in Nigeria is still hamstrung by potent multifarious and multi-dimensional impediments which include wide derogation clauses, primacy of domestic legislation over international Human Rights treaties, absence of true judicial independence, problem of disobedience to court orders and weak institutional infrastructure (Dada, 2013 : 8).

SELF-ASSESSMENT EXERCISE

i. Trace the evolution of Human Rights in Nigeria.
ii. What are the dimensions and limits of Human Rights in Nigeria

4.0 CONCLUSION

The promotion and protection of Human Rights have engaged the attention of the world community as Nigeria has subscribed to major international Human Rights instruments. The history of Human Rights in Nigeria predates the advent of colonial rule. The entrenchment of fundamental Human Rights in Nigeria in the modern sense could however be traced to the 1960 Independence Constitution and those that followed. The enjoyment of selected Human Rights in Nigeria has been a struggle in reality. It is however sad that adequate protection of Human Rights in Nigeria for decades has been a mirage even at the face of constitutional backing. A lot of Human Rights violations are noticed daily. There are approximately 80 registered independent organisations working for Human Rights in Nigeria. The impediments to Human Rights promotion and protection in Nigeria can be classified as constitutional, social, and political, among others.

5.0 SUMMARY

The concern of this unit is the issues that bother on Human Rights situation in Nigeria. It started by reflecting on how Human Rights emerged in Nigeria, Enumerating the fundamental Human Rights in Nigeria, revealed the international Human Rights instruments ratified by Nigeria, Analyze the

extent of Human Rights Violation in Nigeria identified the agencies responsible for the protection of Human Rights in Nigeria while discussing the Factors Limiting Human Rights Goals in Nigeria

6.0 TUTOR-MARKED QUESTIONS

1. How do Human Rights evolved in Nigeria?
2. What are the fundamental Human Rights entrenched in Nigeria's constitution?
3. Mention the International Human Rights Instruments ratified by Nigeria
4. Explain Human Rights violation in Nigeria
5. What are the agencies responsible for Human Rights protection in Nigeria?

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