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# UNIT 20 HUMAN RIGHTS AND INTERNATIONAL POLITICS

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## 20.0 OBJECTIVES

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'Human Rights' has become a popular topic. It has got several dimensions and each dimension may require a full thesis for a detailed treatment. In this Unit we will discuss various issues and developments in Human Rights and International Politics. After going through this unit, you will be able to:

- identify the concept: evaluation, meaning and its significance;
- discuss the issues at the global level;
- explain the position of Human Rights on various issues of development and democracy; and
- evaluate the role of international agencies in protection of Human Rights in the developing countries.

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## 20.1 INTRODUCTION

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Human Rights as we hear and read about today are predominantly of the Western heritage. Rights have always been there in every culture and tradition. But the influence of West in conceptualisation, standardization and their observance throughout the world has made it possible to identify human rights with its liberal underpinnings. This is however a reductionist way of understanding human rights. A balanced perspective will demand a closer examination of the changing political economy of the globe. Human

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## 20.2 SIGNIFICANCE OF HUMAN RIGHTS

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'Human Rights' is, at once, a simple and a complex concept. The most popular version of human rights refers to having a right as a human being. But on serious examination, it will not be difficult to see that it is a complex notion also. Two factors contribute to making it a complex notion: (a) its philosophical features are interwoven with political considerations and (b) over the years, confusing terminologies have been used in various expressions of human rights.

Despite rich complexity, the meaning of human rights has never moved away from its central plank, namely, provision, protection and promotion of those values through which "we affirm together that we are a single human community". In any sense, respect for human dignity is the essential value which lends meaning to human rights. But when it comes to 'packaging' human rights for implementation, influence of political considerations occupies centre-stage. This is an unfortunate development today. However, as we near the end of the 20th century, few will dispute that human rights is the most dominant idea on the agenda of the 21st century, and will continue to be so at least for the initial years in the next century.

The significance of human rights today can be highlighted by some of the development indicators given below:

- a) On the initiative of the UN, a World Conference on Human Rights was held in Vienna during 14-25, June 1993 (the first International conference was held in Teheran in 1968). After two weeks of lively proceeding in Vienna, a consensus was reached on the Vienna Declaration and Programme of Action which, in the words of the then UN Secretary General, Boutros Boutros-Ghali heralded "a new vision "Gobol action for Human Rights in to the next century" later in March 1995, the world submmit for Social Development included in the list of ten commitments to which the world leaders had pledged themselves:  
  
"to promote social integration based on the enhancement and protection of all human rights".
- b) In pursuance of the above, member-states have found it necessary to devote the task of Human Rights Education among their people. "The International Decade for Human Rights Education" has been proclaimed and it has been in force since 1995. India has set up its National Human Rights Commission in 1993 and the Commission has started working full swing ever since. The national task and campaign for rights consciousness aim strategically at awareness promotion among its people as well as articulation and campaign for various 'group rights' belonging to women, child, tribals and dalits, consumers, sick and elderly, disabled and the others.
- c) A closer scrutiny of the post-war international politics will reveal that it has increasingly been characterized by "a constantly shifting, often contradictory, but dominant transnational discourse on aid policy" (R.E. Wood). This aid diplomacy focused on question of development and seldom addressed the questions of democracy, good governance and human rights which is the situation today. The shift in focus today has largely been occasioned following the end of the Cold War and dissolution of the Soviet Union and the Communist bloc. As will become clear later, human rights observance has become unavoidable in their conduct and practice of states in the post-Cold war phase of international relations. All the aid donor countries and agencies have got this incorporated in their aid-policy requirements.
- d) Even those who differed with the aid conditions for human rights observance had their arguments focused on significance of human rights for today's world. These countries, mostly of East and South East Asia in the non-Western world (and without necessarily subscribing to the Western liberal individualism) have offered the arguments of "cultural relativism" as a counter. Briefly, 'cultural relativism' refers to a country's cultural peculiarities which should be incorporated, as the

argument runs, in the conceptualisation of human rights if the latter are to be effectively observed in practice. No cultural relativist has ever questioned the significance of human rights. If anything, they have also joined the Western advocates to make human rights real and practicable.

**Check Your Progress Exercise 1**

**Note:** i) Use the space given below for your answers.

ii) Check your answers with the answers given at the end of the unit.

1) Describe various development indicators demonstrating the significance of human rights today.

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2) State whether the following statements are True or False:

- A) National Human Rights Commission was set up in 1995
- B) International Decade for Human Rights Education started with, 1993
- C) World Conference on Human Rights met at Vienna in June, 1993.
- D) Till recently aid policies addressed questions of development and did not give primary importance to those of democracy and human rights.

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**20.3 THE CONCEPT: EVOLUTION AND MEANING**

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If human rights are significant today, it needs to be mentioned here that the evolution of the concept and their practice have got a chequered history. It may be interesting to know that prior to the use of the term human rights, such rights were typically called the Rights of man or Natural rights. This difference is more than terminological. For example, Thomas Paine who is credited to have coined the expression 'human rights' in his English translation of the French Declaration of The Rights of Man and the Citizen (1789) wrote the basic book on human rights in 1792 and titled it the Rights of Man. In the same year, (1792), in France only and for the first time in recorded history, Mary Wollstonecraft argued for equal rights for women in her equally classic book A Vindication of the Rights of Woman. The name change from 'rights of man' to 'human rights' was suggested by Eleanor Roosevelt in 1947 and it has since then been uniformly observed beginning with the Universal Declaration of Human Rights which the General Assembly had passed on 10 December 1948.

**20.3.1 The Ancient Greeks and the Stoics**

The concept of human rights is rooted in the most ancient values as taught by different religions in the world. But the most dominant strand in the conceptualisation of human rights belongs to its western heritage whose philosophers, as a rule, trace the term to the classical Athenian democracy and the Social influence on Roman jurisprudence. It should be interesting to know that as a normative ethical concept, origins of human rights acquired a political connotation which is continuing till date in modern versions. The Classical Greeks views 'nature' as an "objective standard for the instruction of human social conduct" and insisted that natural laws can be known through a systematic description of the behaviour which "ought to occur" in a society. Politically, this only meant that not everybody in the city-state can have natural rights; actually, only the citizens and not others had access to benefits of natural law. But ironically, in their general defence of such inequalities, Plato and Aristotle have also introduced to the knowing world several conceptions of equality which serve as key elements in human rights theory today. To mention some of these prominent contributions:

equal respect for all citizens (isotimia),  
equality before law (isonomia)  
equality in political power (isokratia) and  
equality in suffrage (isopsephia)  
equality of civil rights (isopoliteia)

But, as said earlier, these benefits were available to the citizen only and they were only half of the Athens' population. The Roman concept of equality, however broadened the scope of the rights application. The Stoics were the foremost contributors to the natural law theory. Working within the classical Greek view, they however conceptualised 'nature' as "a universal system of rules" (as embodied in the Roman society) in which all rational human beings were entitled to equal civic status. The Roman doctrine of natural law introduced a revolutionary improvement over the narrow Greek view in that local conventional law (jus civile) can co-exist with the collective principles (jus gentium) which are observed by all and which by implication, meant that all persons were equal as members of the world community. There is definitely some lesson here to learn viz., coexistence of the general with a plurality of particulars. This has become an important element in the conceptualisation and practice of human rights today.

### 20.3.2 Dominant Notion Today

The dominant conception of human rights today belongs to the Western heritage of natural law philosophy and, as such, even today, human rights discourse cannot be said to be free from the influence of the Greek and the Roman views. Universalism of human rights today is practically possible only when the totality of the argument takes into account local variations.

Ideally, human rights should address issues and concerns relating to human dignity regardless of barriers of ideology and political and economic system. It should also focus on diverse groups of humanity in order to empower and restore their dignity.

It should provide an element of a social cement, "an irreducible human element" through which each member can proudly claim to belong to a single human community regardless of differences. Every religion and social ethos has got its own variant of what we call "Vasudhaiva Kutumbakam". But in these days of aggressive globalization of economy and finance, universalization of the values of equality and freedom does not appear to be anywhere within sight.

For an average student, the picture of human rights has been one presented by the established authorities on the subject. This however is a biased view which equates human rights primarily with:

- a) the protection and promotion of civil and political rights,
- b) the demand for economic rights thrown in at times,
- c) democracy and more so, liberal democracy, as practised in the western world.

It is argued by the Western policy makers and scholars that it was only under the U.S. President Jimmy Carter's leadership that the Operations Human Rights began. Later, according to them, human rights became an international concern.

### 20.3.3 Milestones of Development

However, concepts of democracy and human rights predate Jimmy Carter through he gave the term and usage an official respectability. It thus became a cornerstone of his presidency between 1977 and 1981.

'Democracy' which entered the Vocabulary of the English language in the sixteenth century, had its birth way back in Athens some 2500 years ago. Similarly, official respect for freedom was sanctified (in the western heritage) by the 1688 English Bill of Rights, the 1776 American Declaration of Independence and the 1789 (French) Declaration of the Rights of Man and the Citizen. It is important to remember that all these declarations centered around the nation-state. However, following the second World War, a more universalistic approach to the question of rights emerged. The first example of this was the 1945 United Nations Charter under which the U.N. is "to promote

universal respect for, and observance of human rights and fundamental freedoms for all" and "to develop friendly relations among nations based on respect for the principle of equal right and self-determination of peoples." Three years later, on 10 December, 1948, (which is today observed as the Human Rights Day) the U.N. General Assembly adopted without dissent (but with abstentions by the Soviet bloc nations, South Africa and Saudi Arabia) the Universal Declaration of Human Rights (UDHR) which comprehensively spelled out the concept of human rights. Though only one fourth of the present strength of the U.N. adopted the UDHR then, many nations further committed themselves to respect human rights through a number of international agreements in subsequent years:

Some of the international agreements are:

- a) International Covenant on Economic, Social and Cultural Rights (ICESCR); and International Covenant on Civil and Political Rights (ICCPR) (1966), came into force in 1976
- b) The European Convention on Human Rights (1950), came into force in 1953
- c) The American Convention on Human Right (1969), came into force in 1978
- d) The Helsinki Accords (adopted in 1975)
- e) The African Charter on People's and Human Rights (1981), came into force in 1986.

Along with the UDHR, both the international Covenants (ICCPR & ICESCR) and their Optional Protocols constitute what is known as The International Bill of Rights (IBR). IBR actually provides the conceptual framework to which other human rights instruments are to conform. Two unique features of the IBR must be mentioned. First the international covenants took the 1948 Declaration a step further by making the given provisions legally binding on the signatory states. Such States are required to open the doors for international monitoring of human rights. The ICPR has been signed by 121 states and ICESR by 123 states. The Indian Government has ratified both these covenants on 10 April, 1979 during the Janata Government headed by Morarji Desai. Secondly, of the thousands of treaties registered with the United Nations, about 5 per cent are multi-lateral, whereas in the human rights field, the opposite is true. Virtually, all human rights agreements are multi-lateral. This speaks for the widest observance of human rights in the world.

In view of these developments, the connotation of individual rights has acquired two new dimensions which were unthinkable till 1945. Today, international lawyers and commentators have sanctified and promoted the view that nation-states which are sovereign have however accepted the legal obligations and they do not question the treatment of their citizens under various human rights conventions. Secondly, the right of self-determination of peoples is now recognized as a legal right.

It is also important to note that the United Nations has been the main area within which the international politics of human rights has been played out. It is a different story that the international politics may itself be influenced by the national interest perceptions of a dominant power in today's uneven world. But it cannot be denied that the international norms regarding the rights of the individuals and groups have been established, and necessary institutions and mechanisms created to give concrete expression to these norms only under the auspices of the UN. That is where both the success and failures regarding human rights protection and promotion lie. Whereas the iniquitous politics of the globe have set limits to human rights observance, one also finds efforts of counter-vailing forces as represented in various multi-lateral treaties, declarations, resolutions and agreements as well as emergence of powerful regional regimes and the NGOs which have, on balance, made human rights a noble objective for most of the states to pursue.

The Universal Declaration of Human Rights which contains a Preamble and 30 Articles was proclaimed by the General Assembly "as a common standard of achievement for all peoples and all nations." The Indian Constitution also provides for rights and duties for its citizens. Are our rights and duties at variance with the objectives of the Declaration? (Please find out the area of agreement and convergence of rights and duties as given in the Indian Constitution and compare them with that of the Universal Declaration from the lists given in Annexure-I. Remember that the lists contain rights and duties in their abbreviated form only).

The first World Conference on Human Rights held in Tehran in 1968 affirmed these principles contained in the Declaration. It is useful to remember that the General Assembly had passed a resolution in 1950 declaring that "enjoyment of civil and political freedoms and of economic, social and cultural rights are inter-connected and inter-dependent." These two characteristics of human rights viz., 'inalienability' and 'inter-dependence to the extent of inseparability' between civil and political rights on the one hand and the economic, social and cultural rights on the other, constituted the building blocks in the final re-affirmation of the content of human rights by the Second World Conference on Human Rights at Vienna in 1993. The nature, content and importance of human rights are no more in dispute today after the Vienna Congress.

### 20.3.4 Right to Development

1950 to 1993 was a long journey of debate and resistance to the questions of accepting an essentially Third World position which was that the economic and social rights be treated as inseparable from the civil and political rights. This controversy at the international level was reflected in the efforts of the developing countries backed by the then Soviet Union to formulate a concept of "the right to development" acceptable to all members of the U.N. Such a demand met hostility and rejection by the Western capitalist countries which denounced the idea of 'collective rights' and the 'global economic reforms' to be given as a concession to authoritarian regimes that curtailed freedoms to their citizens. In other words, right to development conveyed to the western liberals, curbing of fundamental political and civic rights. Despite this opposition, the General Assembly did finally adopt in 1986, a Declaration on the Right to Development after many years of preparation. According to this Declaration, the right to development is:

"an inalienable right by virtue of which 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 realized."

A universally acceptable definition of 'development' however is awaited even in the year 1997, that is, more than thirty years after ICESCR was signed in 1966.

### 20.3.5 Diverse Conceptualisations of the Individual

Western liberalism has its sheet anchor in individualism — a political philosophy which focuses on "the physicalist conception of the individual." That is to say, the sensory of body and not the interrelationships with other individuals and the Nature, is what counts in an individual. As Prof. Bhikhu Parekh has pointed out: "Life, the continuation of the body in time, and liberty, the unhindered movement of the body, became two of the highest moral values." Violence, curtailment/restrictions, sufferings etc. which affect human rights have always been construed in their physical terms. Crying, dying, starving, and such other 'physical' sufferings provoked moral denunciation and condemnation for violation of human rights. But if one sees a child frustrated from developing his abilities for want of money, or a man in despair for lack of gainful employment, one would not generally see a moral problem involved there are believe that its redress becomes just as urgent as prevention of death. The developing countries of the third world therefore found little use in such a narrow conception of human rights, based on an 'individual' abstracted from his/her society and the surroundings.

It is worth remembering at this stage that this 'narrow view of the individual' came to dominate the world of moral concerns from the seventeenth century onwards, beginning, with John Locke, the English political philosopher. Locke was closely associated with the drafting of the 1689 Bill of Rights which spelt out the rights of the individual unambiguously and limited the prerogatives of the Crown. As such, the 1689 Bill of Rights came to contain for the first time in the world. Common Law principles of 'due process' and 'the writ of habeas corpus' (produce the body) besides all those existing rights which protected the subjects from the Crown under the 1215 Magna Carta. But such efforts at articulating civil and, later, political rights of the individual against the prerogatives of the Crown, though inherently progressive, were however based on narrowing down the meaning and the scope of the individual. The individual had a rich

and complex meaning before the so-called phase of modern politics. The ancient Athenians believed that "a man taken together with his land and political rights constituted an individual. Almost upto the end of the Middle Ages, a craftsman's tools were believed to be inseparable from the man. They constituted his 'inorganic body' and were just as much an integral part of his self as his self as his hands and feet" (B. Parekh). The Hindus always believed that the individual is born into a set of social relations, called caste. The Chinese have a highly complex conception of the individual who is born into a family which links his ancestors and the descendants into a 'living union' and therefore remains inseparable from it.

### Check Your Progress Exercise 2

Note: i) Use the space given below for your answers.

ii) Check your answers with the answers given at the end of the unit.

- 1) Prepare a table in the chronological order indicating major dates against the milestones of development in the evolution of human rights concept and practice. Begin with Magna Carta (the great charter) which was signed by king John in June 1215 under the pressure of the English barons. Your table should end with two developments in the year 1993.
- 2) Indicate True or False:
  - A) Eleanor Roosevelt suggested the change in the name from 'right of man' to 'human rights'.
  - B) According to Plato and Aristotle, not everybody in the city-state should have natural rights.
  - C) The dominant notion of human rights is of Western heritage; other societies merely followed them.
  - D) Almost upto the end of the Middle Ages, craftsman's tools constituted his inorganic body.
  - E) (For answers see at the end.)

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## 20.4 UNIVERSAL V/S CULTURAL RELATIVISM

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Against such a divergent conceptualisation of the individual, human rights in the Asian countries, assumes a different but not contradictory meaning. The Chinese representative at the Vienna Congress (1993) made an important observation arguing in favour of plural coexistence of the human rights regimes as against direct and indirect imposition of the West's views of liberal individualism.

"The concept of human rights is a product of historical development. Countries at different development stages or with different historical traditions and cultural backgrounds also have different understandings and practices of human rights. Thus one should not and cannot think the human rights standards and models of certain countries as the only proper ones and demand that all countries comply with them. It is neither realistic nor workable to make international economic assistance or even international co-operation conditional on them."

Important to note is that the Chinese are not against human rights; they are only against imposition of a single hegemonic model. This has also been the view, broadly, of the developing countries and the Vienna Congress had upheld this principle in paragraph 5 of the Declarations where it said:

"While the significance of national and regional peculiarities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of the states, regardless of their political, economic and cultural systems to promote and protect all human rights and fundamental freedoms." Significance of this emphasis (to bear in mind the socio-cultural peculiarities of states at different stages of socio-economic evolution) is clearly reflected in the ever-rising trade-based foreign policy pursuits of developed countries like USA, France and other countries towards China which according to them has not been able to maintain its human rights records properly. The most effective counter argument to the proposition that the cultural diversities will impede the evolution

of a common set of global standards of human rights, came in the Resolution adopted by the Asian NGOs meeting in the same year in a parallel session at the Bangkok regional human rights conference:

"Universal human rights standards are rooted in many cultures. We affirm the basis of universality of human rights which affords protection to all of humanity including special groups such as women, children, minorities and indigenous peoples, workers, refugees and displaced persons, the disabled and the elderly. While advocating cultural pluralism, those cultural practices which derogate universally accepted human rights including women's rights must not be tolerated."

While the argument for 'cultural relativism' for human rights concept and practice is valid in its own right, the limitation of such context-specific exercise must be strictly understood so that universality of human rights is promoted strongly. It is within such a conception of universality that the Third World countries will find the thesis of indivisible and inter-dependent rights working actually to the advantage of one and all.

#### 20.4.1 Vasak's Three Generations of Rights

Karel Vasak has sought to classify the historical development of human rights according to the French revolutionary slogan "Liberty, Equality and Fraternity". Liberty or the first generation rights are represented by the civil and political rights which are predominantly "freedoms from" rather than "rights to" types. Equality or the second-generation rights, correspond to the protection of economic, social and cultural rights. They consist of rights to such conditions of living which the state must create and make available for individual's maximal development of personality. Fraternity, or the third-generation rights refers to 'collective' or 'group' rights and are the new rights which are being claimed by the Third World States. These states have been demanding as a group for creation of an international legal and economic order that will guarantee the right to development, to disaster relief assistance, to peace and to a good and clean environment. Implementation of such rights would clearly depend upon international co-operation rather than international constitutional measures.

#### 20.4.2 Differences between the Two Covenants

The two covenants the ICCPR and ICESCR were signed in 1956 but could not become effective, until 1976. The preamble and articles 1,3,5 of both the Covenants are almost identical. The salient difference between them is that while article 2 of the ICCPR provides that the protected rights will be respected and ensured immediately, article 2 of the ICESCR simply provides that the states should 'recognize' the rights and implement them in accordance with specific programmes.

Again, whereas the ICCPR establishes the Human Rights Committee (HRC) to supervise implementation of the Covenant and to provide a mechanism by which individuals may petition the HRC, the ICESCR simply relegates the function of supervision to a political body of the UN i.e. ECOSOC.

#### 20.4.3 UN's Special Conventions

Notwithstanding the difficulties in establishing a universal system for protection and promotion of human rights, the UN system is in continuous process of drafting legally binding instruments to deal with specific aspects of human rights. They are a tribute to international struggle for human rights world over. Some of them are given in Appendix-II.

#### 20.4.4 The UN and Decolonization

An important international development in the field of human rights relates to UN's practice in the field of decolonization. The UN charter provided for transfer of the Mandates (which were created by the League of Nations) to a Trusteeship system under the supervision of the Trusteeship Council. Administering states with colonies or non-self governing territories were placed under an obligation to regularly report to Secretary General of the UN about the well being of the people. Although, the UN charter

referred to the principle of self-determination, it certainly did not refer to the right to self-determination. It is now however generally accepted that such a right exists in international law. This view now has been reinforced by the General Assembly Resolution 2625 and the article I which is common to both the International Covenants which promised 'all peoples to have the right to self-determination.' Inclusion of this right reflects a collective right against an alien domination. But whether the right to self-determination goes further beyond one right to decolonization or to the right of minority cessation is an open question. Certainly the effects of large scale decolonization by the former colonial powers have created a group of new states who have been asking for the third generation rights referred to above.

**Check Your Progress Exercise 3**

**Note:** i) Use the space given below for your answers.

ii) Check your answers with the answers given at the end of the unit.

1) What is Cultural Relativism? What has Vienna Declaration got to say on this aspect?

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2) Identify at least two from each generation of rights as Vasak has formulated.

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3) Vienna Congress also remained open on it but at least on one aspect of this right, there has been unanimity till and including the Vienna Declaration. Which right are we referring to?

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## 20.5 HUMAN RIGHTS, DEVELOPMENT AND DEMOCRACY

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As mentioned in section 20.3.2, the dominant notion of human rights is integrally related to two other liberal tenets of free market-based development and democracy. But this particular accent on human rights acquired its meaning and character from the post-cold war developments in the global political economy.

### 20.5.1 The Helsinki Process

A major international development to note in this field occurred during the period of détente (early 1970s) between the West (USA, France, Canada and U.K.) and the Communist bloc countries of Europe. Known as the Conference on Security and Cooperation in Europe (SCE), the Helsinki process (the name is after the capital of Finland where it was first convened in 1973) reflected a significant diplomatic development in the super-power relations during the last days of Cold War. While the Soviet Union got its Western borders recognised under the Helsinki Process, the Western powers got the Soviet bloc countries to recognise and commit themselves to human rights observance as per international standards. With the disintegration of the Soviet bloc countries, the Helsinki process acquired far-reaching importance. Although the primary function of the

Helsinki process was to establish a framework for development of peace and security in Europe, the institutionalised nature of its not-so-binding agreements became a source of great strength and momentum for promotion of the cause of democratic government and political pluralism all over the world. Internationalisation of human rights movement received its major impetus from the concessions which the Western countries extracted from the Soviet bloc countries. In this form, human rights movement came to be accentuated to imply democratic government and political pluralism after the liberal democratic ideals of the West which emerged victorious from the cold war.

It is therefore not surprising to note that human rights have emerged from the periphery of international arena to a position of primacy in the foreign policy of a substantial number of states during the post-cold war period. But its emergence has come about in a package of combined developments viz., **the triad of human rights, free market and democracy** which have become desirable, and attainable as policy objectives for most of the developing countries which are dependent on the economic and other aid from the developed West.

In this connection, students of international relations may do well to recall the historical continuity in which the Soviet Union was brought down to its knees before it gave concessions at Helsinki. The seventies were particularly a decade of foreign policy disasters for the Western capitalist countries. With the quadruple rise in oil prices administered by the OPEC countries, a fear of "Third World Unionisation" gripped the USA led bloc as it continuously suffered foreign policy reversals notably in South East Asia. This paved the way for détente. On the other side, taking advantage of the situation, the Soviet Union was indulgently expanding its influence. Soviet forces entered Kabul on the Christmas Day of 1979 and it is now the turn of the Soviet Union to suffer a similar set of foreign policy disasters till the system itself crumbled down.

### 20.5.2 Strategic Shifts in Global Political Economy

The anti-communism prism through which the American foreign policy planners from George Kenyan onwards viewed and shaped their country's foreign policy now stands shattered with the end of the cold war. The Third World activism which had raised its pitch of revolt during the seventies when it demanded a New International Economic Order also lost its momentum. As William Robinson aptly observes "containing communism" which legitimated US global interventions during the Cold War days has now been replaced by "democracy promotion" and "human rights protection" in order to secure the same set of objectives of global hegemony as they used to be before. The US post-cold-war foreign policy, according to this analysis, has witnessed a shift from "straight power concepts" to "persuasion", from cold war rivalries to, what Prof. Huntington calls "the Third Wave of Democracy."

In the economic field, conditions are to be created for the free play of the market forces which will ensure global integration across national borders. Widely referred to the globalization phenomenon, it conveniently overlooked that national economies are unequal among the politically equal sovereign states. Consider this instance : The top two richest industrialists of the world are Americans and their annual proceeds are of the same order as the GDP of India.

The globalization process which was unleashed in the wake of the end of cold war is showing contrary trends according to various Human Development Reports published by UNDP (United National Development Programme) annually. The 1992 Report brings out the ever-widening global income disparities:

"Between 1960 and 1989, the countries with the poorest 20 per cent of world population saw their share fall from 2.3 per cent to 1.4 percent. The consequences for income inequalities have been dramatic. In 1960, the top 20 per cent received thirty times more than the bottom 20 per cent but by 1989 they were receiving sixty time more". In terms of real consumption, "the North with about one fourth of the world's population, consumes 70 per cent of its food."

It is now an old story that the capitalist system of European production extended to other parts of the globe mainly through trading relationships. Today, the transnational corporations (TNCs) are responsible for more sales than the trade exports of all the countries in the world put together. In other words, private business of the TNCs are the major economic life lines of the world today and the governments have taken a back

seat. In this changed development in the international trade, it becomes important to note that most of these TNCs are in the USA and 80 per cent of the latter's trade transactions with the rest of the world are carried out under the banner of the TNCs.

Before the TNCs took charge (which actually represents an aggressive phase of asymmetrical financial globalization), the Third World states were already in debt traps owing largely to foreign aid dependent strategies of development which those countries followed during cold war days. The debt crisis was beyond resolution. Most of these developing countries came under the conditionalities of the World Bank and the IMF (to whom they owed huge sums) and went for Structural Adjustment Programmes (SAP) and liberal economic reforms. These so-called liberal economic reforms virtually meant freeing the economy from the state control and little social safety for the vast majority of the working people. According to a UNICEF estimate, "as many as 650,000 children die across the Third World each year because of this debt." It is common knowledge that there are few members and fewer votes from the developing world in the boards of IMF and the World Bank. It is the U.S. led West which dominates political, economic and cultural scenarios of the globe. Even in the media scene, as Chandra Muzaffar has pointed out, about 90 per cent of foreign news and information in the print media circulating in the worlds is controlled in one way or another by four news agencies located in the North.

Against this changed background of the post-cold war era, one often hears about broad acceptance of "the triad of human rights, free markets and democracy." As mentioned earlier, neither of these three is new to the world; acceptance of democracy and human rights has always been considered a noble pursuit for societies, though free-market goal was a post-cold war addition to the package. This also is the reason for a biased construction of human rights, and hence, opposition from groups of societies with divergent cultural values.

### 20.5.3 USA's Policy on Human Rights

The USA always maintained that its standards of maintaining human rights are unrivalled and second to none. But a closer scrutiny of the US policy of ratifying Human Rights Conventions gives a different story. The aggression and aplomb with which they won in the sphere of ideology (capitalism over communism), or international political economy ('Washington' over 'New York,' that is to say, victory of forces of World Bank, IMF etc. over the UN systems like UNDP etc.) are nowhere to be seen in its national policy of ratification of human rights conventions, though 'human rights promotion' is a major plank in the US foreign policy. This situation has more to it than what we read in newspapers about USA's inconsistent stand on human rights when it comes to trading with China, for instance.

In a set of editorial comments, The American Journal of International Law has brilliantly pointed out this indifference on the part of the United States which has "attached to each of its ratifications a package of reservations, understandings and declarations (RUD) which has evoked criticisms abroad and dismayed supporters inside.

These RUDs which have successfully stalled ratification of human rights conventions appear to have been guided by the following principles:

- 1) The US may not respect a treaty which is inconsistent with its Constitutional Provision.
- 2) And it is definitely so, if such a treaty seeks or promises to effect a change in the existing US law and practice.
- 3) It will not submit to the jurisdiction of the International Court of Justice to decide disputes as to the interpretation or application of human rights conventions.
- 4) Every human rights treaty should be subjected to a "federalism clause" whereby the states can largely have the responsibility of their implementation.
- 5) Every international human rights agreement should be "non self-executing", that is to say, the former cannot apply on its own merits.

With these type of national policies of hesitations and reservations it is not therefore surprising to find that the United States has till 1995 ratified only the following five

major treaties (though the second Clinton Administration (1996-2000) appears to be more determined in this direction):

- 1) In 1989, the Genocide Convention that was adopted in 1948
- 2) In 1992, the ICCPR that was adopted in 1966
- 3) In 1994, the Convention against Torture that way adopted in 1984.
- 4) In 1994, the Convention on the Elimination of All Forms of Racial Discrimination that way adopted in 1965.
- 5) In 1995, the Convention on the Elimination of All Forms of Discrimination Against Women that way adopted in 1979.

According to the editorial comments again, "It was reported that the Clinton administration would seek Senate consent also to the International Covenant on Economic, Social and Cultural Rights (adopted in 1966), the Inter-American Convention on Human Rights (adopted in 1969) and the Convention on the Rights of Child (adopted in 1989)". It is important to mention here that the extremely slow progress in the ratification procedure may have been due to some technical snags in undertaking treaty obligations of international scope and application. But since these technical snags have been allowed to persist till date, the criticisms remain valid. More so in the light of developments like aggressive leadership by the US in creating a European Bank of Reconstruction and Development (EBRD) to help the transition process of the Central and East European Countries to free market economies, and its armed intervention in Haiti to "restore" democracy and the like. It may be of interest to note that the EBRD created in 1991 became the only international financial institution with an express commitment to human rights.

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## 20.6 FEATURES OF VIENNA DECLARATION ON HUMAN RIGHTS

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Howsoever skewed in terms of meaning attached to Human Rights in the contemporary international relations, importance of human rights for the entire humankind cannot be overemphasized. But it is crucial to know that the contents of an internationally acceptable set of human rights have been finalized and reconfirmed at Vienna. Let us briefly outline the seminal features of this universally accepted human rights package.

- 1) The universal nature of human rights and freedom is beyond question.  
Whereas the dissident Asian countries (China, Indonesia, Malaysia, Iran, North Korea but not India) could temper their opposition as join the rest in the unanimous acceptance of the human rights as universal, the Western Countries for the first time formally accepted the equal validity of economic and social rights and also of the right to development along with the civil and political rights which, they always thought, represented the quintessence of human rights.
- 2) The human rights as internationally declared and pledged to by most of the countries do not admit of any hierarchy among them and as such, are indivisible and inter-dependent.
- 3) Similarly, a new linkage has also been forged. According to the Declaration, "Democracy, development and respect for human rights and fundamental freedoms are inter-dependent and mutually reinforcing." An important development in this direction is that the Human Rights Commission established a permanent working group to formulate an internationally acceptable right to development.
- 4) The right of the international community to be concerned with human rights practices in any country was firmly stated. This made a big dent on the concept of state sovereignty.
- 5) Nowhere is the international obligation of the sovereign states invoked more vividly than in areas that were customarily beyond the state's jurisdiction. The international accountability of the state will focus on the areas of domestic violence involving women and other societal violations like racism, ethnic cleansing, xenophobia, and others.

- 6) The Declaration called upon the international community and the national governments to mobilize institutionalized efforts to eradicate illiteracy and propagate human rights education. Following the World Conference recommendations, an International Decade for Human Rights Education (1995-2004) was proclaimed ending years of long debate. Appointment of the High Commissioner for Human Rights was finally approved. The High Commissioner will have the overall responsibility for the UN Human Rights programmes.

## 20.7 EMERGING CHALLENGES TO HUMAN RIGHTS PROTECTION

Two trends related to promotion and protection of international human rights may be noted: On the one hand, there is a tremendous drive towards establishing democratic governments all over the world. Most states feel some legal obligation (at least political pressure) to treat their citizens according to the international standards. More people are becoming conscious of their rights and this wholesome phenomenon is due largely to active facilitation by the Non-Governmental Organizations which have increasingly been playing an important role in human rights activities. The other trend however is the increasing incidence of human rights violations which have afflicted the society now. Re-emergence of fascist and undemocratic ideologies like fundamentalism in Europe, North America, Africa and Asia have raised the spectre of 'ethnic cleansing'. Human Rights violations have thus increased. Whether it is Bosnia or Rwanda or Afghanistan, the sordid story of human rights violations cannot be explained in a simple, straight jacket fashion. Taking stock of the human rights situation in the world, the UN Human Rights Centre in Geneva presented to the Vienna Conference the following picture:

"At least half of the world's people suffer from serious violation of their economic, social, cultural, civil or political rights. These violations range from torture, execution, rape arbitrary detention, violence and disappearances, to extreme poverty, slavery, child abuse, famine and under-nourishment and lack of access to clean water, sanitation and health care."

Most of the Third World governments find themselves more committed to prevention of economic and political stability as ground realities becomes from bad to worse whereas the industrialized countries have so far shown little genuine commitment to the "second generation rights" which would have contributed significantly to freeing the Third World rulers from their economic hamstrings. Together, given the needed political will and commitment, these countries would have helped more the world in a direction which would have made it possible for the humankind to realize rights, democracy and development. For this agenda to be carried to its logical end, three agencies need to be conscious, vigilant and assertive: the individual, the non-governmental organizations and the United Nations. It is widely hoped that with the genuine participation of the individual, growing organizational potentials of the NGOs, and the encouragement by the and the spearheading leadership of the UNO, the required political and economic pressure on the actors and agencies can be generated on the international scene in order to create a world of democracy, human rights and development.

### Check Your Progress Exercise 4

Note : i) Use the space given below for your answers.

ii) Check your answers with the answers given at the end of the unit.

- 1) Identify four undisputed achievements of the Vienna Conference and mention at least ten human rights violations reported to it.
- 2) Indicate True or False:
  - A) EBRD created in 1991 was the only international financial institution with an express commitment to human rights.
  - B) International human rights treaties and obligations can apply to the USA with the same force as they do to India, (form example).
  - C) per cent of the foreign news and information in the print media circulating in the world is controlled by four news agencies located in the North.

- D) Human Rights occupied the centre-stage in the international arena only during the post cold war period.

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## 20.8 LET US SUM UP

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Human rights and fundamental freedoms are integral to personality development of human beings whose dignity cannot be compromised. International struggle for human rights has made it possible the accountability of the Sovereign States not only against violations within its jurisdiction but also in areas of societal living.

The picture of human rights in the mind of an average student is usually one which favours the idea that the concern for these rights began under US President Jimmy Carter's leadership. A closer scrutiny however suggests that such a picture is more often biased. It also does not take into account the role of a 'stalking horse' which the US establishment had been using in promoting democracy and human rights as an important foreign policy plank. As the critics argue, the human rights talk today is all 'persuasion' which has replaced the cold war ideological confrontations.

More reasons, than the often-cited technical snags, should be seen in the tardy progress in the US ratification of human rights. (So far they have signed only five major treaties). But the World Conference on Human Rights held at Vienna in 1993 finally succeeded in achieving four notable goals:

- 1) Confirmation of universality of Human Right.
- 2) Establishment of equal validity for social and economic rights along with civil and political rights and the right to development.
- 3) Expansion of the sphere of accountability of the sovereign state. It is obligated henceforth to protect human rights not only within its domestic jurisdiction but also conform to international conventions which is multilateral.
- 4) Finally, human rights, democracy and development are now going to constitute a triad of inter-relationships which are critically to influence the policy decisions of the aid donor and recipient countries. The Human Rights Commissioner has been set up to look after this responsibility. An International Decade for world wide Education in Human Rights has already been proclaimed. The support of the international community as well as the national governments including India has been enlisted.

All these official efforts represent but only one side of the picture. But no less significant would be a widely hoped co-ordination of efforts of the individual and non-governmental organizations under the spearheading leadership of the UNO. Collectively, joint and co-ordinated activities are expected to mount the needed pressure for building a world where democracy, human rights and development are given due emphasis and respectability. Official and institutional reforms hopefully would complement the individual efforts of Human Rights preservation and promotion.

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## 20.9 APPENDIX-I

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### 20.9.1 Universal Declaration of Human Rights (Abbreviated)

Now, therefore, THE GENERAL ASSEMBLY proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms:

- |           |   |
|-----------|---|
| Article 1 | Rights to Equality                        |
| Article 2 | Freedom from Discrimination               |
| Article 3 | Right to Life, Liberty, Personal Security |
| Article 4 | Right from Slavery                        |
| Article 5 | Right from Torture, Degrading Treatment   |

Article 6	Right to Recognition as a Person before the Law
Article 7	Right to Equality before the Law
Article 8	Right to Remedy by Competent Tribunal
Article 9	Freedom from Arbitrary Arrest, Exile
Article 10	Right to Fair Public Hearing
Article 11	Right to be Considered Innocent until Proven Guilty
Article 12	Freedom from Interference with Privacy, Family, House and Correspondence
Article 13	Right to Free Movement in and out of the Country
Article 14	Right to Asylum in other Countries from persecution
Article 15	Right to a Nationality and Freedom to change it
Article 16	Right to Marriage and Family
Article 17	Right to own Property
Article 18	Right to Belief and Religion
Article 19	Right to Opinion and Information
Article 20	Right to Peaceful Assembly and Association
Article 21	Right to Participate in Government and in Free Elections
Article 22	Right to Social Security
Article 23	Right to Desirable Work and to join Trade Unions
Article 24	Right to Rest and Leisure
Article 25	Right to Adequate Living Standard
Article 26	Right to Education
Article 27	Right to Participate in the Cultural Life of Community
Article 28	Right to Social Order assuring Human Rights
Article 29	Community Duties essential to Free and Full Development
Article 30	Freedom from State or Personal Interference in the above Rights

### **20.9.2 India: Fundamental Duties (Article 51A)**

- 1) Respect for Constitution, National Flag and National Anthem
- 2) Cherish and Follow Ideals of National Freedom Struggle
- 3) Uphold and Protect Sovereignty, Unity and Integrity of India
- 4) Defend the Country and Render National Service when called upon
- 5) Promote Harmony and Spirit of Common Brotherhood (and Sisterhood)
- 6) Renounce Practices Derogatory to Dignity of Women
- 7) Value and Preserve Rich Cultural Heritage of the Country
- 8) Protect and Improve Natural Environment
- 9) Have Compassion for Living Creatures
- 10) Develop Knowledge of Science, Humanism and Spirit of Inquiry and Reform
- 11) Safeguard Public Property and Do Not Resort to Violence
- 12) Strive for Excellence in All Spheres of Individual and Collective Activity

### 20.9.3 India: Fundamental Rights

- 1) Right to Equality Before the Law (Article 14)
- 2) Freedom From Discrimination (Article 15)
- 3) Right to Equal Opportunity in Public Employment (Article 16)
- 4) Right to Freedom of Speech and Expression (Article 19)
- 5) Right to Assemble Peacefully Without Arms (Article 19)
- 6) Right to Form Associations or Unions (Article 19)
- 7) Right to Mover Freely (Article 19)
- 8) Right to Settle and Reside Anywhere in the Country (Article 19)
- 9) Right to Practice Any Profession, Occupation, Trade or Business (Article 19)
- 10) Right Not to Be Convicted of Offences Not Crimes At Time Committed (Article 20)
- 11) Right to Life and Personal Liberty (Article 21)
- 12) Right Not to Be Detained Without Being Informed of Reasons (Article 22)
- 13) Right to Consult With, And Be Defended By, a Lawyer After Arrest (Article 22)
- 14) Right Against Trafficking in Human Beings And Forced Labour (Article 23)
- 15) Right Against Employment of Children (Under 14 years) in Factories, Mines or Dangerous Jobs (Article 24)
- 16) Right to Freedom of Conscience And Freedom of Religion (Article 25-28)
- 17) Right to Protection of Cultural Rights of Minorities (Article 29)
- 18) Right to Protection of Educational Rights of Minorities (Article 30)
- 19) Right to Approach The Supreme Court if Rights Violated (Article 31)

### 20.9.4 India: Directive Principles of State Policy

- 1) Social, Economic and Political Justice (Article 38)
- 2) Means of Livelihood (Article 39)
- 3) Fair Distribution of Ownership and Control of Resources (Article 39)
- 4) Equal Pay for Equal Work (Article 39)
- 5) Preservation of Health and Strength of Workers and Children (Article 39)
- 6) Healthy, Free and Dignified Development of Children and Youth (Article 39)
- 7) Equal Justice and Free Legal Aid (Article 39A)
- 8) Right to Work, Education and Public Assistance (Article 41)
- 9) Just and Humane Conditions of Work and Maternity Relief (Article 42)
- 10) Living Wage and Decent Standard of Life (Article 43)
- 11) Full Enjoyment of Leisure, Social and Cultural Opportunities (Article 43)
- 12) Participation of Workers in Management of Industries (Article 43A)
- 13) Free and Compulsory Education for Children (Article 45)
- 14) Promotion of Educational and Economic Interests of Scheduled Caste, Scheduled Tribes and Other Weaker Sections (Article 46)
- 15) Raising Standards of Nutrition, Living and Public Health (Article 47)
- 16) Protecting Environment, Forests and Wild Life (Article 48A)
- 17) Protection of Monuments, Places and Objects of National importance (Article 49)
- 18) Separation of Judiciary from Executive (Article 50)

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## 20.10 APPENDIX-II

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There are various human rights instruments and UN declarations which the nations have pledged themselves to, in the interest of promoting human rights. Some prominent among them are:

- 1) The First, Second, Third and Fourth Geneva Conventions (dealing with conduct of war, treatment of prisoners and protection of civilians in war time)
- 2) The Convention on Prevention and Punishment of the Crime of Genocide
- 3) Convention on Political Rights of Women
- 4) International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- 5) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- 6) Convention Against Torture and other Cruel Inhuman and Degrading Treatment or Punishment
- 7) International Convention on the Rights of the Child (CAT)
- 8) The Convention Relating to the Status of Stateless Persons
- 9) The Convention Relating to the Status of Refugees
- 10) The Slavery Convention of 1926 and its Supplementary convention adopted in 1956.

In addition to these multilateral instruments of treaty status, many resolutions and declarations have been passed (by the General Assembly and the Economic and Social Council) which have contributed to setting international standards for human rights observance all over the world. They cover many specific areas of human rights concern. Prominent among them are:

- Standard Minimum Rules for the Treatment of Prisoners (1957)
- Declaration on the Rights of Mentally Retarded Persons (1971)
- Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981)
- Basic Principles on the Independence of Judiciary (1985)
- Declaration on the Protection of all Persons from Enforced Disappearances (1992)
- Declaration on the Protection of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992)
- Declaration on the Rights to Development (1986)

In the same direction and with the objective of protecting human rights of the related persons, International Labour Organization (ILO) has also passed some conventions governing freedom of association. Some of them are:

- Freedom of Association and Protection of the Right to Organize (ILO Convention No. 87)
- Labour Relations (Public Service) Convention (ILO Convention No. 151)
- Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO Convention No. 169)

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## 20.11 SOME USEFUL BOOKS

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Amnesty International (London); *Human Rights in India (1993) Human Rights are Women's Rights.*

Richard Reoch, *Human Rights — The New Consensus* (London).

Fareed Kazmi, *Human Rights 1994 — Myth and Reality* New Delhi 1987

A B Kalaiah: *Human Rights in International Law*, New Delhi 1986.

K P Saksena: *Teaching Human Rights: A Manual for Adult Education*, New Delhi, 1996.

R J Vincent: *Human Rights and International Relations* (Cambridge) 1986.

Various Issues of Human Rights Quarterly

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## **20.12 ANSWERS TO CHECK YOUR PROGRESS EXERCISES**

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### **Check Your Progress Exercise 1**

- 1) See Section 20.
- 2) A-F, B-F, C-T, D-T

### **Check Your Progress Exercise 2**

- 1) See Section 20  
Last two developments are Vienna Congress (June) and NHRC (October) in 1993
- 2) Except C, all are True

### **Check Your Progress Exercise 3**

- 1) See Section 20. (Refer to para 5 of the Vienna Declaration)
- 2) Right to self-determination

### **Check Your Progress Exercise 4**

- 1) See Section 20
- 2) Except 13, all are True