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# UNIT 16 SOCIO-CULTURAL ISSUES

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## 16.1 INTRODUCTION

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This Unit covers several topics and each different in nature. Therefore, it needs detailed examination of all the subjects, mainly the problem of ethnic and religious movements. Although ethnic and religious movements are inseparable, they need exclusive treatment. As such both the topics have been thoroughly examined. The role of ethnicity or ethnic movements had been explained by highlighting the case of the Sri Lankan ethnic crisis. Likewise the contribution of different elements in the religious movements in the light of the secularisation theory which tried to negate the role of religiosity or religious movements of different nature in different parts of the world is also deeply examined. Then there are two inter-connected topics that is human rights on the one

hand and their violations by different national governments and other bodies on the other. Both these topics needed separate treatment. We have first explained the concept of Human Rights and subsequently the intervention by many International Institutions and other NGOs to protect their infringement. And lastly, the current and latest topic of Human Environment has been dealt with—the role of various international conventions and conferences and how various international institutions implemented the directions of these bodies. It is pertinent to mention here that all these subjects have been dealt with duly taking into consideration the role India played.

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## **16.2 ROLE OF ETHNIC AND RELIGIOUS MOVEMENTS**

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Ethnic and religious conflicts are inseparable from the dynamics of nationalism, which is a universal concept. The conflicts are caused usually by a majority group, to gain control over the political and legal life of the inhabitants of a particular territory, using ethnicity and religion to justify their claim to power. Huntington in his book *The Clash of Civilizations and the Remaking of World Order* has discussed the role of ethnicity and religion in nationalist movements. He first presented his thesis on “The Clash of Civilizations” in *Foreign Affairs* in 1993 and has since published a book on the subject. Essentially, he says that the world is driven by deep cultural divisions and that nations and peoples belonging to different cultural groups—for example, Western, Islamic or Confucian—holds markedly different values regarding democracy, human rights, and religious tolerance. He concludes that it is wrong for the West to impose its value system on the rest of the world in what can only be a futile contest of “the West against the rest”.

But the most pertinent question to be asked here is whether the thesis of Huntington is justifiable? David Little, Director of the U.S. Institute of Peace, is very critical of his analysis and contradicts it by saying that there is no “clash of civilisations” as such. Rather it is important for the West to see itself not as alienated from “the rest,” but as partners with them in a common venture. On the other hand, the West needs to recognise that other regions of the world must adapt and apply the norms of tolerance and nondiscrimination to their own settings in their own ways. But there is no denying the fact that ethnicity and religion have been playing prominent role in different parts of the world. Underneath, we shall discuss the same.

Five major religious and ethnic movements in the world justify the prominence of the role that these movements have played in different parts of the world. These are (i) Religious Nationalism or Nationalist Movements (ii) Global Fundamentalism (iii) Liberation Movements (iv) Pentecostal-charismatic Movements basically Christian movements and (v) Religious revival in the post-communist cultures.

### **16.2.1 Ethnic Movements – A case study of Sri Lanka**

Sri Lanka today is amidst chaos following the continuing ethnic conflict between the Tamils and Sinhalese. To understand how the seeds of this were sown a little bit of recalling the socio-political developments leading to the present ethnic conflict in Sri Lanka and some facts would be relevant.

The first point to remember is that historically the trends of migration from India have led to the current demographic composition of Sri Lanka. One is talking about at least three to four centuries before Christ. The first trend of migration was from East, Central coastal India stretching from

Orissa to almost Bengal. These are today's Sinhalese in Sri Lanka. The second trend of migration was from Tamil Nadu and Tamil-speaking people of what is now Kerala. There were also migrations of descendants of Arabs and Malays. These constitute Sri Lankan Tamils today. In more contemporary times since the third decade of the 19th century, more Tamils were taken to Central Highlands of Sri Lanka as indentured labour. Today, of the total population of Sri Lankans, about 15 per cent people are Tamils while the remaining majority is Sinhalese. Language and religion contributed to the separate identity of the majority and minority communities in Sri Lanka. Buddhism came to Sri Lanka during the time of Emperor Ashoka in the Mauryan dynasty of Indian history. This is the religion of majority. The Sinhalese language is derived originally from *Pali* with further philological contributions from Bengali, Portuguese and Oriya languages. Its script is of Brahmi style. The Tamil speaking people are either Hindu or Muslim. Their language is derived from ancient Tamil dialects. The Sri Lankan history right up to the advent of western colonial powers like Portuguese, Dutch and the English in that order is replete with trends of invasions from Southern India into Sri Lanka and Sinhala attacking the southern tip of the Indian Peninsula and part of Tamil Nadu. The western colonial powers played the Tamils against Sinhalese and Sinhalese against Tamils to gain domination over the island. The British were most successful in this exercise when they took over Sri Lanka late in the 18th Century. They played the divide and rule tactic to the hilt of which Tamils were major beneficiaries, socially, administratively and economically. So at the time of Sri Lankan independence after the Second World War, the seeds of Tamil-Sinhala antagonism already existed. With the advent of a democratic form of government based on universal adult franchise, Sinhala majority naturally moved to redress the imbalances of previous Tamil influence in the polity and economy of the country.

But by the late fifties this attempt on redressing the imbalances of Sinhalese got converted into process of discrimination and later persecution of Tamils. Attempts were made by senior Sri Lankan Tamil leaders like Poonam Balun, Chelvanayakam and Thiruchelvan with Sinhalese leaders like Dudley Senanayake, John Kotelawala and S.W.R.D. Bandarnaike to ensure that the Tamils get proportionate and fair share in the power structure, administration and economy of Sri Lanka. But after coming to agreement, the Sinhalese leaders invariably backed out of these agreements.

This is the background in which Tamil militancy emerged from the mid-1970s in the island. Matters came to a head when Tamil militants killed Sri Lankan soldiers in Jaffna in July 1983 which led to massive anti-Tamil riots in the Sinhalese areas. Nearly two lakh Tamils fled to India as refugees.

India got involved in the Sri Lankan situation in 1983 and remained involved till the withdrawal of Indian Peace Keeping Force (IPKF) from the Island early in 1990. This is the over-simplified version of broad trends in Sri Lankan history and contemporary politics. India tried, from time to time, to help Sri Lanka to overcome the ethnic conflict. The agreement signed in 1953 by prime minister Nehru and Sri Lankan prime minister John Kotelawala tried to regulate the relations of Tamils with Sri Lanka. It provided that the names of all people of Indian origin who desired to stay in Sri Lanka are allowed to stay back and those who did not wish the Sri Lankan citizenship would be sent back to India. Another agreement in 1964 called Shastri-Sirimavo Agreement, sought to solve the problem of about 9 lakh 75 thousand stateless persons in Sri Lanka. The fate of 1 lakh 50 thousand (who were not covered by the 1964 agreement) who sought to be settled by Indira Gandhi-Sirimavo agreement of January 1974.

As the situation caused by the Liberation Tigers of Tamil Eelam (LTTE) demand for recession of

Jaffna and neighbouring areas, and creation of Eelams took a violent turn, the Sri Lankan president invited prime minister Rajiv Gandhi in 1987 and persuaded Rajiv to send an Indian Peace keeping Force (IPKF) to restore normalcy. This decision proved disastrous, as neither the Tamils nor the Sinhalese welcomed the Indian troops. In practice the IPKF lost hundreds of men in fight against the LTTE. In view of the total failure of the the IPKF experiment, then prime minister V.P. Singh finally withdrew the Indian troops from Sri Lanka in 1990.

The new government under president Chandrika Kumaratunga came to power in 1994 and immediately made peace overtures to the LTTE. The LTTE after some initial response did not consider the Sri Lankan Government's peace initiative enough and resumed hostilities. The Tamils of Sri Lanka are divided into three groups, the original Tamil migrants in the North and East of Sri Lanka, Tamil workers and Tamils known as Tamils of Indian origin who were in Central Highlands of the country and thirdly, Tamil Speaking Muslims who now claim separate socio-cultural identity.

Then, there are many Tamil militants and political parties; the LTTE is the most disciplined, dominant and effective Tamil Group who claims to represent the Tamil interests. And they are in no mood for half-way compromises. Their main demand is of a separate Tamil country in Sri Lanka, *Eelam*. In the interim phase they may be agreeable to complete autonomy, devolution of power, etc. though what the Sri Lankan Government can give in response, does not seem to be sufficient. President Chandrika Kumaratunga's attempt at making peace was in disarray earlier but, is now paying dividend and there is peace for the time being in Sri Lanka.

## **16.2.2 LTTE and the Sri Lankan Government**

Anybody interested in the strategic dilemmas of Sri Lanka should keep in mind that unless the Sri Lankan government meets the Tamil demands for autonomy and self government and a fair share in the power structure of Sri Lanka the ethnic conflict might eventually break up into two countries which would be an unfortunate development from every point of view. It must be emphasised that compared to the presidents and governments which have governed Sri Lanka over the last four decades, the present president of Sri Lanka has both vision and the courage to work for an amicable solution of the ethnic problem with her Tamil patriots including the LTTE. When Kumaratunga came to power she tried assiduously to come to terms with the LTTE. The LTTE, however, felt that all the initial and preliminary concessions that she had given to facilitate discussion on substantive political issues have not been enough. The consequences have been the renewal of hostilities, between the LTTE and the Sri Lankan government. At the height of LTTE hostilities president Kumaratunga asked a number of friendly countries for defence supplies and cooperation. But she did not ask for anything strategically significant from India except that the Indian Navy to take preventive action in the Palk Straits against LTTE acquiring weapons and supplies from Tamil Nadu where they still have sufficient connections. Newspaper reports indicate that the Indian Navy did undertake some such operations. Prabhakaran warned the Sri Lankan government and the world at large that LTTE has taken on the Sri Lankan Army successfully, that it has taught IPKF a lesson and LTTE is capable of teaching similar lesson to the US forces if president Chandrika Kumaratunga invites any such force to help her in confronting the LTTE.

## **16.2.3 Religious Nationalism**

In much of the world, ethnicity and religion are frequently inseparable with the former drawing

immeasurable motivation and legitimacy from the latter. Religion has a highly volatile role in many nationalist struggles. Religious movements had played important role in the awakening of nationalism in India in the nineteenth century leading to national movement and establishment of the Indian National Congress. But, at times religious feelings may be aroused by vested interests to create rift and conflict in the society.

Thus, in the former state of Yugoslavia, the animosities between Croats, Serbs and Slavs are grounded in ethnic disputes, but these tensions have underpinnings in religious confrontations between Orthodox, Romans and Muslims. The struggle to achieve some semblance of peace between the Jewish state of Israel and its Muslim neighbours, as well as the Palestinians within Israel's has lasted many years. The confrontation between the Central Russian government and the Republic of Chechnya draws dramatic attention to the ethno-religious tension that traverses the southern borders of Russia in Central Asia and the Caucasus.

Religiously grounded nationalist movements are by no means restricted to the geopolitical regions of the world where large Muslim populations are found. In Northern Ireland the conflict is between Protestants and Catholics, though majority of people of Uster (Northern Ireland) are Protestants, yet Catholic minority desires union with Ireland. For this terror is being used against the UK.

Likewise the turmoil in Sri Lanka is between the Tamils (Hindu) and the Sinhalese (Buddhist).

Religious nationalism expands the number of cases where people are acting in the name of religion and contradicts the argument that the role of religion should be receding in the modern world.

#### **16.2.4 Global Fundamentalism**

In the early 1980s the occurrence of the Iranian revolution led by Ayatollah Khomeini and the rise of the fundamentalist-led Christian Right in the United States helped give a name to the phenomenon of religious militancy.

A five year research programme by the American Academy of Arts and Sciences to examine the relationship between fundamentalism and modernity has established the following conclusions:

- i) most of the movements examined cannot appropriately be characterised as anti-modern;
- ii) many fundamentalist movements embrace the technologies and organisational character of modernity; that the tension with modernity stems from modernity's cognitive style, which rejects any legitimate place for the sacred in modern cultures;
- iii) Fundamentalist movements see a casual link between the rejection of the sacred and the social ills of modern societies; and
- iv) for the most part, outside of the Islamic World, fundamentalist movements do not pose an imminent threat to the existing political regimes, but they are, more usually a force that political authority must take seriously.

#### **16.2.5 Liberation Movements**

Liberation theology was born as an aftermath of the Second Vatican Council (1962-65) and the General Conference of the Latin American episcopacy held in Medellin, Colombia (1968). The

aim of the conference was to pursue what they had characterised as a “preferential option for the poor”. The concept of liberation theology was initially employed to characterise the emergence of small grass roots “base communities”. In Latin America, theologians have produced the largest literature on liberation theology. In the broadest sense, liberation theology has come to stand for liberation from all forms of human oppression: social, economic, political, radical, sexual, environmental and religious. Many liberation theologians have come to see Marxist analysis and the action imperatives of the church as inextricable.

There has been severe criticism of the liberation theology. While some argued that it entails an almost wholesale and uncritical religious legitimating of revolutionary violence the other said that theological teachings are secondary to the agenda of human liberation. However, liberation theology like fundamentalism and religious nationalism offers evidence of the continuing adaptability of religious dogma to the problems of the contemporary world.

It has inspired and motivated people to become engaged in the quest for change in the social and political order. And, moreover, liberation theology legitimates the activities of those who take up the cause.

It figured centrally in the popular insurrection that overthrew the Somoza dictatorship in Nicaragua.

Nelson Mandela was the undisputed hero of the dismantling of apartheid in South Africa, but it is hard to imagine this historic event coming to fruition without the support of religious leadership.

Roman Catholic Cardinal Jaime Sin’s public opposition to the repression of Ferdinand Marcos was critical in mounting the insurgency that drove the Philippine dictator from power.

In Haiti, Roman Catholic Church was similarly important in driving Jean-Claude Duvalier into exile and installing Jean-Bertrand Aristide, a Catholic priest, in the presidency.

The fact is Liberation theology continues to grow and find expression in much of the Third World—Latin America, Africa and Asia.

## **16.2.7 Post-Communist Societies**

Marxist analysis shared, with secularisation theory, the belief that religion would gradually wither and disappear. Seventy years of aggressive atheist propaganda and the accompanying campaigns to crush organised religion under communism did not succeed. When Mikhail Gorbachev initiated his radical restructuring (*perestroika*) and open public criticism (*glasnost*), he spoke of the “moral values that religion generated and embodied for centuries” and proclaimed that the same “can help in the renewal of our country”. Gorbachev pursued and facilitated the renewal of spiritual values in the former USSR and in less than a decade, change swept across the former Soviet empire. Often overlooked in efforts to account for the staggeringly swift disintegration of communist jurisdiction in Eastern Europe is the role played by religious groups in many countries.

The role of religion in the collapse of communism is best known in Poland where the Roman Catholic Church had taken risks in its opposition to the communist regime long before forming an alliance with and providing sanctuary for the Solidarity movement. The priests and pastors offered invaluable leadership in societies, which had few other opportunities to nurture authentic leader.

In Russia, there are many manifestations of spiritual renewal. Most highly visible is the rebuilding and the reopening of Russian orthodox churches, but a survey of the Russian-speaking citizens, conducted by the international social survey in 1991, produced evidence of religious revival, between one-half and three-quarters of Russians believe in God depending on how the question is worded. "One out of every five Russians has moved from rejection of God and religion to acceptance of both". Approximately, the evidence of spiritual renewal can be found in an energetic and spirited influx of foreign missionaries both to the former Soviet Union and Eastern European countries. A directory of Christian missionary organisations working in the former Soviet Union and Eastern European countries in the early 1993 listed 674 groups; this data base had grown to over 1,600 foreign and approximately 2,000 indigenous organisations by the summer of 1993. What is clear is that the Soviet's efforts to hasten the demise of religion have failed.

In-depth studies of countries such as Sri Lanka, Ukraine and Sudan show that the "key contemporary patterns of cultural, ethnic and religious confrontation exist not so much between civilisations as within nations". In these and other countries, as part of an effort to create a nation-state, majority groups have sought to assert exclusive ethnic domination over minority ethnic groups, which in response try to evade or restrain the majority's effort to dominate. Generally, the majority group legitimates its claim to power by appealing to ethnicity, and further bolsters its claim by arguing that it advances and defends "certain sacred values and ways of life" embodied by a particular religion.

In their effort to avoid domination by the larger ethnic group, minorities usually appeal to human rights standards that prescribe ethnic and religious tolerance and nondiscrimination.

Minorities widely advocate human rights solutions, not because they are internationally proclaimed and sanctioned, but more importantly, because they are regarded as offering the only truly satisfactory basis for stable ethnic and religious peace in a multi-ethnic nation.

The struggle of minorities to cope with the ethnic nationalism is as apparent in the United States, Canada and Western Europe (for example, among Native Americans in the United States, Quebecois in Canada and Roma in Europe) as it is in far-flung countries and regions. The struggles of minorities in the West are not different from what is happening in the rest of the world. The kinds of laws and policies in favour of ethnic and religious tolerance and nondiscrimination that are found in the West have come to be embraced, as a result of a very painful history.

For example, Dalai Lama advocates the "separation of church and state" in future Tibet to guarantee non-Buddhist minorities, their rightful claims to freedom and equality. In Sudan, there are substantial Muslim constituencies who oppose the present Islamic government and who advocate, sometimes at considerable risk to themselves, greater compliance with human rights principles. Minority populations in southern Sudan invoke principles of nondiscrimination and religious freedom. Also, it was the recent adoption of human rights norms in Moldavia, Guatemala, and the Philippines that provided the basis for a peaceful settlement of ethnic disputes in those countries. These examples help to demonstrate that there is no clash of civilisations as such. Rather, it is important for the West to see itself not as alienated from "the rest", but as partners with them in a common venture. At the same time, the west needs to recognise that the other regions of the world must adapt and apply the norms of tolerance and nondiscrimination to their own settings in their own ways.

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## 16.3 HUMAN RIGHTS

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Human rights are fundamental privileges or immunities to which all persons have moral claims. The International law views human rights as personal-legal entitlements and liberties that include prohibitions against certain types of conduct directed against persons by States and Governments. Neither approach regards human rights as “gifts” to be withdrawn nor withheld at will.

The concept of human rights is rooted in the most ancient values and religions of our global heritage and incorporated into the eminent philosophies and political doctrines of the world. In the beginning Universal Human Rights law came about as a result of the First World War. The League of Nations, the forerunner of the UN, required a commitment by the administering power in the Trust Territories to safeguard the welfare of the local population. The treaties enforced by the League were signed to protect the rights of ethnic minorities in newly created States in the Central and the Eastern Europe. The International Labour Organisation (ILO), which was established after the First World War, advocated minimum standards of labour and welfare. All these gave rise to hundreds of important human rights conventions.

### 16.3.1 Origins of UN’s concern for Human Rights

The terror waged by the Nazi regime led to the rebirth and internationalisation of human rights concerns. The global movement for human rights is founded on and inspired by the UN Charter. The UN Charter was the first multilateral treaty to embody human rights concern in its provisions. It is the foundation upon which the large body of human rights laws has been built.

### 16.3.2 Human Rights: The UN Charter Framework and Beyond

The UN Charter makes seven references to human rights. Article 1.3 provides that one of the four purposes of the World Organisation is the promotion and encouragement of human rights and fundamental freedoms for all without the discrimination of race, sex, language or religion. Article 1.3 para 1(b) directed the General Assembly to initiate studies and make recommendations in this regard. The Economic and Social Council (ECOSOC) was given the same function under Article 62. More than any other provision of the UN Charter Article 55 describes, clearly and expressly the extensive purposes of the UN in the field of human rights. These include “respect for the principles of equal rights” and “self-determination of peoples”, promotion of “higher standards of living, full employment, and conditions of economic and social progress and development”; solution of “international economic, social, health and related problems”, and “universal respect for, and observance of human rights for all”. Article 56 contains a “pledge” of member-states for taking joint and separate action in cooperation with the UN for the achievement of these goals. Article 68 provides that the ECOSOC should create a permanent commission on Human Rights. Lastly, Article 76(c) provides that the human rights and fundamental freedoms of persons living in Trust Territories be encouraged. The UN’s relevant activities in the field of human rights over the years can be classified into four distinct categories:

- a) **Setting Standards**—which includes defining and clarifying the rights of individual;
- b) **Promotional Activities**—which include studying particular human rights, or human rights in

- particular places, and recommending measures for their fuller realisation;
- c) **Humanitarian Functions**—such as providing assistance to the victims of human rights violations; and
  - d) **Implementation**—which entails protecting violations in specific cases.

### 16.3.3 The International Bill of Rights

Five major UN legal instruments exist to define and guarantee the protection of human rights: the Universal Declaration of Human Rights (1948), the International Covenants on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966) and the two Optional Protocols to the latter Covenant. The Declaration of 1948 adopted by the General Assembly is a manifesto with primarily moral authority. The Covenants are treaties binding on the States which ratify them. Together they constitute the document known as the International Bill of Human Rights. Preparation of an International Bill of Rights was the fundamental pre-occupation of the UN. The UN Commission on Human Rights, under the chairpersonship of Eleanor Roosevelt, took up as its first task, the definition of basic rights and freedoms. On 10 December 1948, the first pillar of 20th Century human rights law, the Universal Declaration of Human Rights, was adopted by the UN General Assembly. Intended as a “common standard of achievement for all peoples”, the Universal Declaration of Human Rights spelt out basic civil and political rights and fundamental economic, social and cultural rights which human beings everywhere were entitled to enjoy. Through this basic text, the international community solemnly proclaimed its faith in the fundamental rights of individuals and in the dignity and worth of human persons. Many newly independent countries have cited the Declaration or included its provisions in their basic laws or constitutions, and many human rights covenants, conventions and treaties concluded since 1948 have restated their principles. Several of these rights find a place in the Constitution of India, as justifiable rights. Some others are mentioned in the Directive Principles of State Policy (non-justifiable yet fundamental in the governance of the country). The Universal Declaration has inspired at least two regional human rights instruments. The Council of Europe adopted a European Convention on Human Rights in 1950, and the Organisation of American States also adopted a similar Convention of Human Rights in 1969.

Important among the rights and freedoms found in the Universal Declaration’s thirty articles are:

- Equality before the law;
- Freedom of movement and residence;
- Freedom from torture or cruel, inhuman or degrading treatment or punishment;
- The right to seek political asylum from persecution;
- Freedom of thought, conscience and religion;
- The right to vote and participate in government;
- The right to education;
- The right to work and to form and join trade unions;
- The right to an adequate standard of living;
- The right to health protection;

- The right to participate fully in cultural life.

Following the adoption of the Declaration, the UN Members turned towards the drafting of the rest of the International Bill of Rights, i.e., a treaty of human rights. But, while the Declaration was drafted in just over 18 months, the Covenants and Optional Protocol took 18 years. This delay can be attributed to several reasons. Firstly, the Covenants were the most comprehensive Human Rights treaties ever prepared. They contained not only the basic rights of the individual—civil, political, economic, social and cultural rights—but also provided measures for their implementation. Secondly, since the UN membership was increasing while these covenants were being drafted, it became difficult for the UN bodies to accommodate or harmonise the interests of all nations. Finally, the UN bodies (especially the General Assembly) were over-burdened with the work of maintaining and keeping peace in crisis situations in many parts of the world.

During the drafting stage, the General Assembly decided to divide the rights enumerated in the Declaration into two legal instruments: (a) a Covenant on Civil and Political Rights embracing the traditional civil and political rights recognised in western cultures and, (b) a Covenant on Economic, Social and Cultural Rights to satisfy the aspirations of the Socialist and Third World societies. The provisions of the former were meant immediately to be legally enforced, whereas those of the latter were meant to be achieved progressively through long-range education, planning and promotion. With the adoption of these covenants in 1966 and other relevant instruments, a solid legal foundation of human rights law was laid down for application at all levels of society -local, national and international. Both were unanimously adopted on 16 December 1966 and opened for signature and ratification the same day. However, it took another decade before these covenants were ratified by a requisite number of states to bring them into force. The International Covenants on Economic, Social and Cultural Rights entered into force on 3 January 1976 (as of 1 July 1993 it had been ratified or acceded to by 123 states). The International Covenant on Civil and Political Rights and its Optional Protocol entered into force on 23 March 1976 and as of 1 July 1993, this Covenant had been acceded to or ratified by 121 States (and the Optional Protocol by 29 States as of 1 June 1983). The Second Optional Protocol to the Covenant of Civil and Political Rights was adopted by the UN General Assembly in 1989. This Protocol seeks to do away with capital punishment. It has been ratified by 18 States but is opposed by some countries on the grounds that the death penalty is consistent with their laws and customs and serves as a deterrent to crime. Together, they take the Universal Declaration a step further by making provisions legally binding and opening the door to international monitoring of human rights practices. Generally, the two covenants reflect rights and freedoms set forth in the Universal Declarations. There are a few instances, however, where the Covenants have departed from the Declaration. This was the case with the right to property and the right to self-determination. Owing to the opposition of the Socialist Countries, the Commission on Human Rights decided not to include the right to property in the Covenants, although the same right appeared in the Declaration. On the other hand, the Covenant includes the right of self-determination, which was missing in the declaration.

The International Covenant on Economic, Social and Cultural Rights represents the “second generation” of human rights. These rights, for a long time, were not acceptable to the capitalist countries and their jurists as human rights. But the Socialist Countries with the support of the newly emerging countries of Asia and Africa created an environment where the economic, social and cultural rights were not only recognised as human rights but were also codified in a legally binding Covenant. Today, the International Covenant on Economic, Social and Cultural Rights is

an important and integral part of the International Bill of Human Rights. A country ratifying and acceding to this covenant acknowledges its responsibility to promote better living conditions for its people. It recognises everyone's right to work, to fair wages, to social security, to adequate standards of living and freedom from hunger, and to health and education. It also undertakes to ensure the right of everyone to form and join trade unions.

The International Covenant on Civil and Political Rights largely represents the traditional rights and freedoms which have been popularised as the "first generation" of human rights. A country ratifying this Covenant recognises the right of every human being to life, liberty, security and privacy of person. It also recognises freedom of thought, conscience and religion; freedom of opinion and expression; the right of peaceful assembly and of emigration; and freedom of association. The Covenant prohibits slavery, guarantees the right to a fair trial and protects persons against arbitrary arrest or detention, torture and inhuman or degrading treatment. However, there are provisions for certain reasonable restrictions to be imposed on the enjoyment of some specified rights and freedoms, provided these are necessary to protect the national security, public order, public health or morals or the rights and freedoms of others. Many countries have taken advantage of this arrangement and they have also exercised their powers by derogating from their obligations under the Covenant.

#### **16.3.4 Human Rights in India**

Human rights are given a place of honour not only in the Constitution of India, but also in the entire socio-political system. As mentioned elsewhere, many of the civil and political rights are enshrined as Fundamental Rights in Part III of the Constitution. They are justifiable and protected under the Right to Constitutional Remedies. Besides, several socio-economic rights are included in Part IV as Directive Principles of State Policy. The State has endeavoured to implement most of these principles. The Right of Education which was included in non-justifiable Part IV was, in 2002, made a fundamental and justifiable right.

India has high-powered National Human Rights Commission comprising eminent persons and chaired by a former Chief Justice of India. It looks into all cases/complaints of alleged violations of human rights. The violations are sometimes alleged to have been committed by state authorities or even police and security forces. For instance when a trial court acquitted several accused in 2003, alleged as being involved in rioting and murders in the Best Bakery case in Gujarat, the NHRC took up the matter at the highest level seeking the retrial of the accused who were let off due to lack of evidence. The NHRC is vigilant about proper protection of human rights of all Indians. Besides, several states have also constituted State Human Rights Commissions to ensure that there are no violations of human rights, and if any violation occurs, the guilty must be punished.

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### **16.4 HUMANITARIAN INTERVENTION**

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The UN Secretary-General has at his disposal a confidential diplomatic mechanism by which he may raise urgent human rights problems with the governments of Member States. Cases might include the release of a political prisoner or the commutation of a death sentence. The Secretary-General's efforts to intercede are discrete and rarely, if ever, publicised, but he continues at the same time, to make public appeals on behalf of respect for human rights in general.

Envoys entrusted with the politically sensitive and sometimes dangerous task of compiling information on human rights violations in a specific country or on certain kinds of violations are appointed in their individual capacities but not as government representatives. They gather facts, maintain contacts with local groups and government authorities, visit prisons and other detention centres, interview victims of human rights violations and make recommendations on how human rights institutions might be strengthened. Besides, the UN communicates with the concerned governments in order to clarify or improve human rights situations or launch an investigation by objective experts.

#### **16.4.1 Role of Human Rights Monitors**

The UN High Commissioner for Human Rights, Jose Ayala Lasso, has also established a Human Rights Hotline—a 24-hour facsimile line that will allow the UN centre for Human Rights in Geneva to monitor and react rapidly to Human Rights emergencies such as the 1994 crisis in Rwanda. In addition, a human rights database will be created at the UN centre for Human Rights in Geneva to gather information for use of special rapporteurs. Moreover, states which are parties to human rights treaties are obliged to report periodically to international bodies on measures they have taken, on progress they have made and on any difficulties they have encountered in living up to the various instruments. But, it should always be borne in mind that Human Rights agreements depend not only upon the will of the States but also on their capacity to implement their provisions.

#### **16.4.2 Role of the UN System's Human Rights Umbrella**

Other parts of the UN system undertake specialised human rights activities:

- UN Children's Fund (UNICEF): Continues to publicise the recently adopted convention on the Rights of the Child.
- Office of the UN High Commissioner for Refugees (UNHCR): Extends legal protection and humanitarian assistance to millions of refugees.
- UN Commission on the Status of Women: Focuses on elaborating the rights of women.
- International Labour Organisation (ILO): Has concluded over 300 treaties pertaining to the rights of workers.
- UN Educational, Scientific and Cultural Organisation (UNESCO): Responsible for studies, conventions and recommendations on human rights in its field of work.

#### **16.4.3 Role of International Humanitarian Law**

International Humanitarian Law deals with protecting victims of armed conflicts from violence and other violations of human rights Standards have been codified in the four Geneva Conventions (1949) for the protection of war victims and in two Additional Protocols (1977). The combined goal of these instruments is to restrict the use of violence against those who are not engaged in armed fighting and to prohibit methods of warfare that cause unnecessary suffering or damage to the environment. Four conventions, which have been ratified or acceded to by 181 states, cover the *sick* and wounded on land; wounded, *sick* and shipwrecked members of armed forces at sea; prisoners of war; and civilian victims. The first Protocol, signed by 125 States, covers victims of international conflicts. The Second Protocol, signed by 116 states, seeks to protect victims of internal conflicts among other agreements negotiated by the UN which are also part of

the international body of humanitarian law, are the Convention on the Prevention and Punishment of the Crime of Genocide (1948) and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974). The UN has invoked the Geneva Convention and Protocols often, most recently over the conflict in the former Yugoslavia.

#### **16.4.4 Role of the Non-Governmental Organisations in Promoting and Protecting Human Rights**

The Economic and Social Council (ECOSOC) defines a non-governmental organisation as “any international organisation which is not established by inter-governmental agreement”. This broad term encompasses private voluntary organisations, community groups, professional and trade associations, labour unions, academic and scientific organisations and others.

The contributions of NGOs and countless individual lawyers, journalists and other activists have helped greatly to further respect for human rights throughout the world. At the international level, NGOs such as Amnesty International (winner of the Nobel Prize for Peace for 1977), the International Committee of the Red Cross and Human Rights Watch (with its divisions: Africa Watch, America Watch, Asia Watch, Helsinki Watch and Middle East Watch) conduct on-site investigations, disseminate detailed reports and wage advocacy campaigns in international and domestic forums. Operating amidst far less public awareness and with far less physical protection than their transnational counterparts are domestic human rights organisations, which, wherever possible, monitor the actions of their respective Governments. Among these groups are the Tutela Archdiocesan Legal Protection Office of San Salvador (El Salvador), Vicaria de Solidaridad in Chile and the Free Legal Assistance Group of the Philippines.

#### **16.4.5 NGOs and the UN**

Article 71 of the UN Charter provides for the participation of NGOs, on a consultative basis, in the work of ECOSOC. Among the 930 NGOs with consultative status with the UN are Amnesty International, Federation of Red Crescent Societies, the Andean Commission of Jurists and the Regional Council for Human Rights in Asia. The UN maintains contact with a wide range of NGOs through the Department of Public Information and the Non-Governmental Liaison Service (NGLS), sponsored jointly by several agencies and programmes of the UN system. NGOs provide information to the UN experts who monitor human rights and generally try to influence the decisions of the many UN bodies whose work touches the human rights aspects.

NGOs are independent and willing to take risks in areas which Governments and Inter-governmental Organisations consider politically sensitive. They have, by their very nature, a freedom of expression, a flexibility of action and a liberty of movement which enable them to complement the role of the UN in the promotion and protection of human rights.

The end of the Cold War created a series of tentative attempts of defining the new world order. The resulting confluence of peoples and cultures has resulted in an increasingly global multicultural world teeming with tension, confusion and conflict in the process of its adjustment to pluralism. There is an understandable urge to return to old conventions, traditional cultures, fundamental values and the familiar, seemingly secure sense of one’s identity. This climate of change and acute vulnerability raises new challenges to the ongoing pursuit of universal human rights.

Largely through the ongoing work of the UN, the universality of human rights has been clearly established and recognised in international law. These achievements in human rights standard spread over nearly five decades of work by the United Nations system. Like most areas of International law, universal human rights are neither representative of, nor oriented towards one culture, to the exclusion of others. Every human being has the right to culture, including the right to enjoy and develop cultural life and identity. However, traditional culture is not a substitute for human rights; it is a cultural context in which human rights must be established, integrated, promoted and protected. Such an approach recognises cultural integrity and diversity without compromising or diluting the unquestionably universal standard of human rights.

From the Balkans to the Horn of Africa, human rights are an integral component of situations in which humanitarian assistance is required. The victims might be refugees, people displaced within their own countries or other civilians caught up in public disturbances. Their plight is the same: their human rights are likely to have been violated; they need protection from abuses during the upheaval; and their rights must be respected once the emergency has passed and they seek to resume their lives. The UN system has led the international community's response to the ever-growing number of humanitarian challenges. The UN High Commissioner for Refugees (UNHCR) and the new Department of Humanitarian Affairs (DHA) have been at the forefront of this effort, working with Governments, international and regional organisations, the International Committee of the Red Cross (ICRC) and many others in the non-governmental community.

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## **16.5 ENVIRONMENT**

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The need for the protection of human environment can be legitimately described as the international objective of primary importance. The protection of environment has today gained recognition as the common concern of all the civilised states. Consequently, the protection of environment through global and collective efforts constitutes one of the major areas of activity in contemporary times.

The deterioration of environment due to the unprincipled use of natural resources, industrialisation, urbanisation, use of pesticides and because of the existence of problems like poverty, poor housing, bad public health, malnutrition and inadequate employment which characterise life in almost all the developing countries, have together compelled the mankind to devise ways and means not only for checking the deteriorating environment but also for recouping the environment through conscious efforts and planning.

All this has given rise to the need for the regulation of behaviour of nations at international level, both for the prevention of future deterioration of environment as well as for the adoption of eco-friendly technologies. This has also given rise to the need to ban certain chemicals and technologies of daily use which have been the main culprits guilty of deteriorating the environment.

The concept of protection of the environment involves the attempt to prevent pollution, particularly global pollution or environmental degradation. One of the accepted rules of International law has been that no state should act in a manner or permit the use of its territory in a way which can be injurious to other states. This rule is taken to mean in contemporary times as the rule which compels every nation not to act in a way as can cause environmental pollution or degradation. Hence it is well within the scope of the International Law to enact rules for the protection of

environment by all the states individually as well as collectively.

In fact, it was in the 1960s that the humankind became conscious of the need to adopt a convention on Human Environment. On 3 December 1968, the UN General Assembly passed a resolution favouring an international conference on human Environment.

### **16.5.1 Stockholm Conference on Human Environment (1972)**

Consequently, the UN Convention on Human Environment was held at Stockholm from 5 to 16 June 1972 and it adopted a Declaration on Human Environment. Seven areas were delimited for securing action directed to protect Human Environment:

- 1) The Declaration on the Human Environment.
- 2) The Action Plan for the Human Environment.
- 3) The Resolution on Institutional and Financial Arrangements.
- 4) Resolution on Designation of World Environment Day
- 5) Resolution on Nuclear Weapon Tests.
- 6) Resolution on holding of a second conference on Environment.
- 7) Decision to refer to governments' recommendations for action at the national level.

#### **a) The Declaration on the Human Environment**

The UN Conference on the Human Environment 1972 in its section 1 contained the Declaration on the Human Environment. While comparing this declaration with Universal Declaration of Human Rights of 1948, it was observed, that it “was essentially a manifesto expressed in the form of an ethical code intended to govern and influence future action and programmes, both at the national and international levels.” The Declaration on the Human Environment stands divided in two parts: The first part contains general observations like man is both creature and moulder of his environment, the protection and improvement of the human environment affects the economic development of the world and the natural growth of population continuously presents problems on the preservation of the environment. The second part of the Declaration contains 26 principles. These principles reflect the fundamental international responsibility of states regarding environmental preservation and pollution control.

#### **b) The Action Plan for the Human Environment**

The Action Plan for the protection and enhancement of the environment was in effect a grouping, in a more or less logical fashion, of all recommendations for international action adopted by the Conference. The Action Plan for the Human Environment was divided into three parts:

(a) An Earth Watch Programme to identify problems of international significance so as to warn against impending environmental crises; (b) Recommendations concerning environmental management or in other words the application in practice of what was shown to be desirable or necessary with regard to the environment, and (c) Supporting measures such as education, training, public information and others.

### **c) The Resolution on Institutional and Financial Arrangements**

This resolution recommended the establishment of a 54-member Governing Council for Environmental Programmes. The members of this council were to be elected for a three year term on the basis of equitable geographical distribution. However, the UN General Assembly on December 1972 established a 58-member Governing Council (instead of 54 members) for Environmental programmes. This Governing Council was directed to keep under review the world environmental situation in order to ensure that the emerging environmental problems should receive appropriate and adequate consideration by governments. In order to assist the Governing Council its Executive Director prepares, every year, a report on the state of the environment. This resolution also recommended the establishment of a small secretariat in the United Nations to ensure a high degree of effective management within the United Nations. The resolution recommended the establishment of a voluntary fund for addition of finances for environmental programmes. To provide for the maximum efficient co-ordination of the UN environmental programmes, the Resolution recommended the establishment of an Environmental Co-ordinating Board.

#### **Decision to refer to governments recommendations for action at the National Level**

The Stockholm Conference on Human Environment also referred to the state governments recommendations for action at the national level. Besides these measures, the conference recommended that the draft articles of a convention on Ocean Dumping be referred for adoption at a conference to be convened by the United Kingdom towards the end of 1972. Some of the decisions and recommendations of the Stockholm Conference were implemented by the resolutions of the UN General Assembly in its 27th session in 1972. Through one of these resolutions, Resolution 2997 (XXVII), a 58-member governing council for the UN Environmental Programmes (UNEP) was established. It was to hold annual sessions. It was to act as leader, catalyst, stimulator and co-ordinator for the environmental action centres being located in different parts of the world. It was to come into effect and supervise the implementation of the resolutions and recommendations of the Stockholm Conference as well as of the UN General Assembly.

After the Stockholm Conference and the subsequent establishment of the UNEP, a global environmental protection movement began taking shape. The Habitat—the UN conference on Human Settlement, provided a great help in this direction.

### **16.5.2 1975 Ratification of Global Conventions concerning Environmental Protection**

The year 1975 witnessed a big push forward for the environmental protection movement when seven important global conventions were ratified by a number of states. These were:

- The Convention on International Trade in endangered species of Wild Fauna and Flora (1973).
- The Convention on Wetlands of international importance especially as waterfowl Habitat (1971).
- The Convention concerning the protection of the World Cultural and Natural Heritage (1972).

- The International Convention relating to Intervention on the High Seas in cases of Oil Pollution Casualties (1969).
- The International Convention on Civil Liability for Oil Pollution Damage, 1969.
- The Convention for the prevention of Marine Pollution by Dumping from Ships and Aircrafts (1973).
- The Convention for the Prevention of Marine Pollution by Dumping of Wastes and other Matter (1972).

In 1982, the tenth Anniversary of the Stockholm Conference was celebrated and the Nairobi Declaration was adopted. The commitment to observe and implement the decisions taken at the Stockholm Conference was reaffirmed. The UN Convention on the Law of the Seas 1982 also contained provisions for the protection of marine environment. The Earth Summit held at Rio de Janeiro 1992 did a good job in strengthening the global awareness and efforts towards the preservation of global environment and protection of our planet mother Earth.

### **16.5.3 Global Climate Change Meet 1997**

In January 1997 a three day meet on global Climate change was organised by the Development Alternatives, an NGO, under the UN Framework Convention on Climate Change for developing countries at New Delhi. It explored the possibilities of business collaboration between the developed and the developing countries for solving the problems of poverty, environment and resource management. The ways and means needed for checking the emission of Green House Gases (GHG) were discussed. It was agreed that a reduction in fuel consumption was the immediate need.

Earlier the first issue of the biennial Global Environment Outlook (GEO) was released in Nairobi, in January 1997. It identified seven major environmental trends in seven regions of the world and called upon the people to give immediate and crucial attention to effective global environmental governance.

### **16.5.4 March 1997 Meet of AEC of ELCI**

The Alternative Environment Congress (AEC) of the Nairobi based Environment Liaison Centre International (ELCI) was held at Tilonia (Rajasthan) in March 1997. It was attended by 100 environmentalists from 38 countries, who gave a call for the delineation of a sustainable and practical approach towards environment protection involving people at the grass root level.

### **16.5.5 The Kyoto Meet on Climate Change**

The Third Conference of the parties to the UN Framework Convention of Climate change was held in Kyoto, Japan, from 1 to 11 December 1997. One hundred and fifty countries participated in this meet and attempted to draft a treaty that would initiate definitive, tangible and time bound steps to limit the emission of six green house gases (like CFC) that cause global warming. The failure of the post-1992 years, *i.e.* post-Earth Summit at Rio de Janeiro years to produce something substantial for reducing the emission levels of green house gases had made this Kyoto

summit very crucial.

However, at the two day Kyoto meet also serious differences appeared between the developed countries on the one hand and developing countries on the other. The European Union agreed for a 15 per cent reduction and Japan called for a 2.5 to 5 per cent reduction in emission level of GHG (Carbon Dioxide, Nitrous Oxide, Methane, HFCS, PFC and Sulphur Hexafluoride). After initial hiccups, the USA offered to make a 5 per cent reduction in emission level provided the developing countries also accepted such a norm. The developing countries wanted that the polluters i.e. the developed countries should foot the costs. After much debate and bargaining, the final Kyoto Protocol was adopted on 11 December, 1997. The main features of the Protocol are as under:

‘Annex 1’ countries to reduce emission levels by an average of 5.2 per cent relative to the levels prevailing in 1990. (The Annex 1 countries include the 24 original members of the Organisation for Economic Cooperation and Development, members of the EU and 11 Eastern European countries.) Broadly, the US was to cut emission levels by 7 per cent by the year 2012; the 15-member EU by 8 per cent; Canada by 6 per cent and Japan by 6 per cent; Russia was to stabilise emissions at its 1990 levels; Australia was to be allowed to increase its emission levels by 8 per cent over the same period.

The developing countries were exempted from making targeted reductions but were to measure their emissions. Cuts were to apply to all six greenhouse gases. The commitment period was to be 2008 to 2012. Inclusion among the cuts of sources and removal of defined ‘sinks’ or carbon absorbent material was limited to afforestation, reforestation and deforestation since 1990 (US proposal). The acceptance of trading, joint projects implementation and the Clean Development Mechanism (CDM) toward fulfilling emission cuts were undertaken. These three aspects called for ‘voluntary’ participation from non-Annex 1 or developing countries. The CDM, along with emission trading and joint implementation, was defined in the protocol for funding of the project in the developing countries for mitigating climate changes, that would allow the developed countries to gain credit for investing in the developing countries. It was, however, not clear whether the CDM would be operated by the World Bank or the Global Environment Facility. There was a complete absence of *any* mechanism to ensure compliance with commitments or punitive measures. These were to be considered at the next meeting (COP4) in Buenos Aires in 1998.

The Protocol was open to signatures by parties between March 1998 and March 1999.

### **16.5.6 Buenos Aires Convention on Climate Change 1998**

The fourth session of the Conference of the Parties of the UN Frame-work Convention on Climate Change (COP4) was held from 2-14 November, 1998 at Buenos Aires, Argentina. The conference was convened primarily to discuss the implementation of the Kyoto Protocol of 1997. The Kyoto Protocol prescribed targets for the reduction of emission levels in the case of six GHGs by the industrialised nations, which were mentioned in Annexure 1 of the protocol.

COP4 considered communications from various parties detailing national positions on various parameters related to the emission of GHGs, and discussed issues relating to the transfer of

technologies, particularly those related to the energy sector. It also debated the three controversial 'flexible mechanisms' Clean Development Mechanism, International Emission Trading, and Joint Implementation. However, the politics and economics of global warming which played a crucial role at Kyoto, continued to dominate the proceedings at Buenos Aires.

Issues raised by the US at Kyoto also burdened the agenda at Buenos Aires. At Kyoto, the US had accepted a 7 per cent cut in the 2008-2012 levels relative to emission levels in 1992. Environmental groups estimated that the US emission levels in 2010 could actually be 20 per cent higher than the 1992 levels. Bargaining by the US had resulted in multiple loop holes in the agreement. The International Emission Trading Regime, for which the US had been vociferously advocating, allowed less polluting countries to sell their quotas to more polluting ones.

The Clean Development Mechanism (CDM) provided for government and private participation to undertake emission reduction. The Joint Implementation scheme allowed parties to take credit for emission abatement projects.

At this conference, the US adopted a hard-line market-friendly approach, rebuffing the demands of the developing countries led by the G-77 and China, that technology transfers be made easier so that the objectives of the convention may be achieved.

China, and later India, demanded that distinction be maintained between the 'luxury emissions' of the developed nations and the 'survival emissions' of the developing nations.

The question of voluntary commitments for the developing countries was raised again at Buenos Aires. Although Argentina introduced this in the agenda, the developing countries led by the G-77 and China strongly opposed this. The announcement by Argentina and Kazakhstan to assume commitments unilaterally, threatened to split the cause of the developing countries. As such the Kyoto Protocol remained virtually unratified.

Protection of Environment continues to be a priority item on the agenda of humankind for the 21st century. The most healthy and positive development in the drive towards environment protection has been the increasing human consciousness in favour of this primary objective.

There is no denying the fact that almost all the countries of the world are seized of this serious problem of environment protection notwithstanding the fact whether they are developed countries or the developing ones. Although as explained above, the biggest danger emanates from the industrialised world, the need of the hour is the collective and vigorous approach on the part of all the countries of the world. Environmental protection continues to be a priority item on the agenda of humankind for the 21st Century as is evident from the various conferences held till date and various conventions signed by both the developed and the developing countries of the world. We can safely conclude that the most healthy and positive development in the drive towards environmental protection has been the increasing human consciousness in favour of this primary objective.

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## **16.6 SUMMARY**

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Humankind is faced with several issues concerning its survival. These include the problems of

environment protection. Besides, a number of ethnic and religious movements and conflicts have been causing concern to humanity. Some of these conflicts, as for example, the problems of Tamil minority in Sri Lanka and its decades old demand, agitation and terrorist activities have direct bearing on the Indian polity and India's foreign policy. Human Rights are now universally protected through the United Nations system. The Universal Declaration of Human Rights adopted by the UN General Assembly in December 1948 became the basic guiding instrument for the protection of socio-economic as well as civil and political rights. Subsequently, the UN adopted two conventions to provide a binding framework to the civil and political rights as well as the socio-economic rights. Besides these, two optional Protocols constitute the International Bill of Rights. The countries that have ratified the conventions are bound by their provisions to ensure the respect for human rights.

The United Nations System, various intergovernmental agencies, governments of Member Nations as well as several non-governmental organisations (NGOs) are engaged in the protection of human rights. India, like many other countries, has a National Human Rights Commission (NHRC) to check and secure punishment of human rights violations.

The environmental protection has now become a major concern of the UN and its agencies. The Earth Summits, in which India has also actively participated, have been working to ensure that pollution is minimised and the earth becomes a more secure place for all the living beings.

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## **16.7 EXERCISES**

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- 1) Discuss the role of ethnic and religious movements. Do you agree with the view that religious and ethnic conflicts are inseparable from the dynamics of nationalism?
- 2) International institutions and NGOs are quite conscious of their duty to preserve the human rights. Discuss.
- 3) "Environmental protection is the key to our survival", do you agree? Critically examine.